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National Park Service Legislation,...

NATIONAL PARK SERVICE LEGISLATION

ING

THE

ONAL PARKS, FORESTS, AND LANDS

OF THE

COMMITTEE ON RESOURCES HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

ON

H.R. 2025

A BILL TO AMEND THE LAND AND WATER CONSERVATION FUND ACT OF 1965 AS REGARDS THE NATIONAL PARK SERVICE, AND FOR OTHER PURPOSES

H.R. 2067

A BILL TO FACILITATE IMPROVED MANAGEMENT OF NATIONAL PARK SERVICE LANDS

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OCTOBER 26, 1995—WASHINGTON, DC

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NATIONAL PARK SERVICE LEGISLATION

THURSDAY, OCTOBER 26, 1995

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND LANDS, COMMITTEE ON RESOURCES

Washington, DC

The subcommittee met, pursuant to call, at 9:10 a.m., in room 1324, Longworth House Office Building, Hon. James Hansen [chairman of the subcommittee] presiding.

STATEMENT OF HON. JAMES V. HANSEN, A U.S. REPRESENTATIVE FROM UTAH AND CHAIRMAN, SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND LANDS

Mr. HANSEN. The meeting will come to order. This is a meeting of the Subcommittee of National Parks, Forests and Lands. I appreciate the attendance of our witnesses today at our early meeting. We are having a number of important bills on the floor at this time. We wanted to get this one going as rapidly as we could. We have some important things that we would like to go over, and we appreciate you being here as early as you have been. I have placed my entire opening statement in the record; however at the suggestion of leadership we are going to put everybody from the Interior Committee from now on under oath. And I think they know why.

[The statement of Mr. Hansen follows:]

STATEMENT OF HON. JAMES V. HANSEN, A U.S. REPRESENTATIVE FROM UTAH AND CHAIRMAN, SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND LANDS

Today we will be hearing a series of bills designated to improve the administration of the National Park Service. These bills would—if enacted—ensure the Director of the Agency is headed by a park professional, authorize the National Park Service to make minor boundary adjustments without an Act of Congress, authorize the Park Service to expend funds outside of park boundaries for administrative and visitor facilities, authorize challenge cost share programs and authorize the National Park Service to charge fees for commercial, non-recreational uses of parks.

These are all importment reforms which will improve the management of the National Park Service. In particular, legislation to ensure that the Director is fully qualified to operate this agency is a very high priority. The problems facing the National Park Service are extremely serious. This agency can no longer afford to play musical chairs with directors every four years, especially when the director spends the first two years getting directions to the restroom. The morale of this agency has been seriously impacted by a director, who, like Secretary Babbitt, is more interested in politics than parks.

After we succeed in getting the right person to lead the agency, we can work on streamlining its administration through the use of new tools. Just as we are working to improve the land exchange process for BLM and the Forest Service, we need to authorize the National Park Service to make minor boundary adjustments. We need to authorize the National Park Service to enter into agreements to provide facilities outside parks. At Zion National Park in Utah, a private businessman has offered to build a park contact station on private lands with non-federal funds. This

site will be an ideal shuttle staging area to reduce traffic in the park. It should not require an act of Congress to permit the National Park Service to staff this facility.

Challenge cost share programs are another method to increase how far we can go with Federal dollars. The Forest Service has found this program to be extremely successful and participation by the National Park Service, which has been limited in annual appropriation acts, is just starting to show promise.

Finally, I wish to say a few words about the non-recreation fee program authorized under H.R. 2025. As most persons in this room know, I am a strong advocate of increasing park fees and retaining them where they are collected. Parks are the best deal in America today, and we will have to ask park users to pay more if we have any hope of addressing the backlog of outstanding needs. However, last February we heard lengthy testimony from both the Interior Inspector General and the General Accounting Office about the poor fiscal management in the NPS.

Today, we will hear further testimony from the Interior IG in response to a request of mine about how poorly managed the special use permit fee program is managed. I intend to give due consideration to the track record of the National Park Service regarding fiscal management in any fee program authorized by the subcommittee.

I thank the witnesses for their attendance and look forward to our hearing today.

So our first witness is Mr. Kennedy. And let me get the oath here, Mr. Kennedy, and we will administer it to you. I hope you realize the consequences of this. Being an attorney, I am sure you do.

Mr. KENNEDY. I do, sir.

Mr. HANSEN. Do you have that testimony? Raise your hand.

[Witness sworn]

Mr. HANSEN. The bills we are looking at today are H.R. 2067, H.R. 2464, H.R. 2465 and H.R. 2025.

Mr. Kennedy is Director of National Park Service and we will turn the time to you.

STATEMENT OF ROGER KENNEDY, DIRECTOR, NATIONAL PARK SERVICE

Mr. KENNEDY. Mr. Hansen, I gather that you have many things on your mind this morning, and I will really not even summarize my opening statement.

Mr. HANSEN. How much time do you need, Mr. Kennedy?

Mr. KENNEDY. Oh, just a couple of minutes, really.

Mr. HANSEN. We will give you ten.

Mr. KENNEDY. Oh, thank you, sir.

Mr. HANSEN. You have the floor.

Mr. KENNEDY. I would like permission to file my statement with respect to H.R. 2067 to provide for minor boundary revisions and leasing facilities outside parks.

[The prepared statement of Mr. Kennedy follows at the end of the hearing.]

Mr. KENNEDY. I believe that this is essentially a joint bill that has been arrived at between your staff and the staff of the National Park Service. If that is a correct assumption, I won't trouble you with any further remarks on it. I would be glad to amplify them or offer further data if that is useful to you.

With respect to H.R. 2025, Section 2(k), 4 and 6 amendments to the Land And Water Conservation Act, I believe that this is also a bill in which we are in substantial agreement in that we all wish to make it possible for the parks to charge people who come in and use the parks, such as film makers and people who have occasional weddings and other celebrations, that they would pay a market

price for that use of public facilities as distinguished from just enough to cover the cost. I don't believe that there is any substantial disagreement about that.

I do have with me others who can testify if you want them to do so or supply for the record information as to what we think the additional revenue could be in the primary places where that can take place. I should think those to be such places as the Santa Monica Mountains, the Death Valley and other places that are familiar to film making organizations and other activity.

With respect to Section 4 of H.R. 2025, this is again a way in which the Park Service superintendents can use the money you give us to leverage participation from others on a cost-sharing basis. This is really frequently a matter of getting people to do work in the parks with us, often in educational activities, planting of trees, fencing, landscape work and that sort of thing.

It has been limited in the past to a certain sum of money. It doesn't make a lot of sense to do that if you are trying to get partners to help you do the work of maintaining the parks. It is my understanding that this has been much discussed in the past and isn't controversial. I would be glad to amplify those remarks as you might require.

The final section, Section 6, again seems to us to be quite self-evident and not controversial. It is that if somebody knocks a retaining wall out or creates damage in the park, that if there is an insurance recovery thereafter, that the money goes back to repair the thing you destroyed rather than going back to the general treasury, leaving the park in a position where it has got a damage and the general treasury has the benefits of the insurance, which isn't a very sensible way of being sure you take care of park property. I believe that too is a matter of fairly general agreement.

With respect to H.R. 2465 to require Senate confirmation and establish a five-year term for the Director of the National Park Service, this bill, it seems to me, has the right thing in mind, which is to increase the likelihood of skillful, professional directorship of the National Park Service. That is a purpose which we share and certainly, personally, I share.

There are differences about details of this matter, but I do believe that we are in concurrence both as to its purposes and its general direction. The differences among us are that the Administration feels that a five-year term for the Director is an arbitrary term that is not required of other Presidential appointees of Federal land management agencies. I understand that the other analogous Federal land management agencies don't have a five-year term. Now I understand further, though I could be mistaken about this, that the terms of years are generally those for people like the FBI Director and offices of that sort.

The second place in which we think that there ought to be an adjustment, I confess, I don't fully understand the reason for the difference of view, but I will state it. It is this, that the position of the Administration is that the removal of the Director only for cause, which is in the bill, is not appropriate in that instead the Director should be able to be removed at the pleasure of the President.

Cause seems to me to be a term which is very easy to deploy, and therefore I do not personally have a very strong feeling about this one way or the other. The Administration's position is that the Director should serve at the pleasure of the President, be removable by the President at the President's own behest, as distinct from the language of the bill which says only for cause.

In the final difference of view, they are also pretty close, I think, we think that the qualifications for the Director of the National Park Service prescribed in H.R. 1893, which were that the Director should have substantial experience in park management and natural or cultural resource conservation is preferable to the language in H.R. 2465 which says that the Director should have substantial experience and demonstrate competence in Federal park management and natural or cultural resource conservation.

If you take just the language in H.R. 2465, you would exclude not only myself, which might not be a great loss to you, but it would exclude Mr. Ridenour, Mr. Mott and, I believe, the founder of the National Park Service, Mr. Steven Mather, Mr. Demeray also. So it does seem to us that with those kinds of limitations, that you might want to revise them to permit that the Director should have competence in management, and demonstrated competence, and have also some competence in natural and cultural resource management.

With those differences stated, I would be delighted to try to respond to any questions, Mr. Chairman.

Mr. HANSEN. Thank you. Mr. Kennedy, how do you envision your job title? When you were called or however you were given this responsibility, how did they explain to you what your responsibilities would be?

Mr. KENNEDY. Primarily to articulate the purposes stipulated in the Organic Act of 1916, which provide fundamentally for the preservation and protection of the places in custody of the National Park Service for which the Service are trustees, and the use, enjoyment and, I believe, instruction or education of the public that comes to those places.

It seems to me that the Director of the National Park Service has two related and wholly harmonious responsibilities. They are to take care of these places in our trust and understand them enough to take care of them, to be experienced in management, if possible in public management, to be financially experienced and at the same time to have a sufficient sense of American history and the general circumstances in which this country unfolded so as to be able to make use of his office better to enhance the services provided the American people in those places in understanding their history and in understanding our relationship to the other species with which we share those places.

Mr. HANSEN. OK, you have an understanding of other species, understand history. You yourself, what were you doing before you became Director of National Parks?

Mr. KENNEDY. Well, I started out as a lawyer. I spent three years in the Eisenhower Administration, once working for Chief Justice Burger in the Department's litigation section, then working in the Department of Health, Education and Welfare during the period of the Salk polio vaccine and finally my last year with the Bu-

reau of Economic Statistics reporting as an assistant to Secretary James Mitchell in the Department of Labor.

Thereafter, I served several times with President Nixon working on financially related matters while I was a private banker, including the formation of the Nation's program in student loans, of which I am very proud. I served President Nixon again as a consultant in health, education and welfare. During that period, I was managing a bank of some magnitude. I went on to become the Chief Financial Officer of the Ford Foundation for ten years, managing a portfolio of $2 or $3 billion, diversifying it and managing a fairly substantial staff.

I have been the director of four or five corporations, including insurance companies, mortgage bankers and industrial companies. During my term at the Smithsonian Institution I was a daily renewable or something contract employee, so I was free not only to manage the National Museum of American History, but to serve as a consultant and participant in a number of industrial companies, including a toy manufacturer and a genetic engineering firm. I helped to form those. I served as a consultant to five universities on management, and I have tried very hard to write books along the way, Mr. Chairman.

Mr. HANSEN. Very impressive credentials and no one would ever question your enthusiasm for the parks. What about your qualifications in parks, what would they be?

Mr. KENNEDY. Well, I commenced my life as a guide. My family was in the expedition outfitting business, has been for 120-odd years. I have never been previously an employee of a park system. I have never been before an employee of a park system. I have worked in my life for some years in places that are now parks, but I would never contend to you that I am a professional park manager. I am a professional manager of large and small business concerns and of Federal institutions.

Mr. HANSEN. Many of us have been envious of the Forest Service, which has run very smoothly for years; Forest Service chiefs have come up the ranks as career people, which has been held as an example to many. Have you examined how the Forest Service has done it in the past?

Mr. KENNEDY. Yes, sir, I have, and I have had considerable conversations formally and informally with Chief Thomas, whom I respect enormously.

Mr. HANSEN. So do I.

Mr. KENNEDY. I really want to stress, Mr. Chairman, that I personally feel very strongly that if the credentials that are necessary to handle this kind of job could be found in someone who is a career civil servant or had been a career servant at all, that that is a desirable thing to do.

Mr. HANSEN. OK, Mr. Kennedy, who are your immediate superiors? Who do you answer to?

Mr. KENNEDY. I answer to the Assistant Secretary for Fish, Wildlife and Parks and to the Secretary of the Interior.

Mr. HANSEN. And who are they?

Mr. KENNEDY. They are Bruce Babbitt as Secretary and George Frampton as Assistant Secretary for Fish, Wildlife and Parks.

Mr. HANSEN. And they are your betters, is that right?

Mr. KENNEDY. I said I reported to them, Mr. Chairman.

Mr. HANSEN. I have heard you use that expression before. I was just curious if that is the way you wanted to refer to them.

Mr. KENNEDY. I wouldn't pass invidious judgment or exhortatory judgment with respect to any of my peers in government service.

Mr. HANSEN. That is fine. We accept that. Now let me ask you this. When you outlined your duties as Park Service director, you didn't say anything about your relationship with Congress. How do you envision your relationship with Congress?

Mr. KENNEDY. Well, to begin with, to tell the truth, I have been testifying in committees of Congress for 40 years or more. I have testified under oath and not under oath. I have striven to tell the truth throughout. And let us begin with that. Second, I believe that it is important for me to conduct my relationship with Congress in mutual respect. I have never at any time in my 40-odd years of experience with the Congress called any Congressman publicly or privately by a derogatory term, ever, and I don't intend to begin doing so.

Mr. HANSEN. Have you written to Members of Congress or called Members of Congress?

Mr. KENNEDY. Oh, frequently over the years, yes.

Mr. HANSEN. Mr. Kennedy, do you understand the law regarding to lobbying the Congress from a member of the Executive Branch?

Mr. KENNEDY. I do indeed, sir.

Mr. HANSEN. Let me add to that. The definition of that was brought out by the Attorney General under George Bush, and that, unless I am mistaken, is now the criteria that we follow. Do you agree with that?

Mr. KENNEDY. Yes, indeed.

Mr. HANSEN. All right, Mr. Kennedy, have you by your superiors, Mr. Frampton and Secretary Babbitt, ever been asked to do anything that you felt was not completely honest with Members of Congress?

Mr. KENNEDY. No, sir. I have never been asked by anyone to do something I did not think was completely honest. And if I had been so asked, I would have resigned.

Mr. HANSEN. Mr. Kennedy, you are fully aware of H.R. 260, aren't you?

Mr. KENNEDY. I am, sir.

Mr. HANSEN. Can you show me anywhere in there where it closes one single park in America? Is there anyplace it does?

Mr. KENNEDY. No, I could fill this out a little bit if you would like. That bill proposes the formation of a commission which would establish criteria, and after thorough discussion might thereafter ensue in the closing of some parks.

Mr. HANSEN. Mr. Kennedy, wouldn't you agree that in an instance such as that on page 13, line 14 it says nothing in this act shall be construed as modifying or terminating any of the national parks without a subsequent act of Congress? Don't you interpret it to mean that the way it is now the only one that can franchise a park is Congress and the only who can disenfranchise a park is Congress?

Mr. KENNEDY. Absolutely, sir.

Mr. HANSEN. You agree on that?

Mr. KENNEDY. I entirely do, yes.

Mr. HANSEN. And you have never been told by Secretary Babbitt or Assistant Secretary Frampton anything to the contrary?

Mr. KENNEDY. That I should state anything to the contrary?

Mr. HANSEN. Or they would.

Mr. KENNEDY. I really want to be clear as to what your question is.

Mr. HANSEN. Let me clear it up, if I may.

Mr. KENNEDY. Thank you.

Mr. HANSEN. We have here in front of me a list of things, *This Land Is Our Land,* here is a nice picture of Secretary Babbitt, following that is a series of pages, "Babbitt Blasts GOP Park Plan, Blackstone River". He talks about what is going to close—contrary to what you just said, he says it is going to close parks, ax U.S. Park System. All the way through this Babbitt warns to sell national parks. Mr. Kennedy, is there anywhere in H.R. 260 that it talks about selling any national parks?

Mr. KENNEDY. Mr. Chairman, you asked me about the language in the bill, and I responded to you that that language stated that it did not.

Mr. HANSEN. My first question, Mr. Kennedy, was does it close national parks. My follow-up question, does it sell national parks. Two distinctions there. So I am asking you the second question. Yes, Director of National Parks, speaking under oath, do you see anyplace in this bill that sells any national park, yes or no?

Mr. KENNEDY. No.

Mr. HANSEN. Thank you. "Bruce Babbitt Looks To Help To Save Sites, Talks About The Truman Home; Babbitt Appeals For Help In Saving Sites." All the way through here Babbitt blasts plans to sell parks. Now you are the Director of National Parks, you give your superiors knowledge, I am sure of that. Save Truman Home, Babbitt Urges. Now, Mr. Kennedy, as I read this, I read a lot of things about a list that is composed, and three of these headlines say Republicans have a list to close national parks. Would you please tell us where that list is?

Mr. KENNEDY. I have never seen any such list.

Mr. HANSEN. Has the Secretary ever confided in you about this list that he referred to in Kansas City, in Utah, in California, in Washington, DC, in New York and Boston, Massachusetts? Did he ever tell you about this list?

Mr. KENNEDY. No, sir.

Mr. HANSEN. So you are kept out of the loop, just Mr. Babbitt had this list, is that correct?

Mr. KENNEDY. Didn't say that, sir. I just answered your question as to whether there had been any such confidence, and my answer to you was no.

Mr. HANSEN. Mr. Kennedy, did you ever refer to a list? Give me that clipping. Did you ever refer to a list?

Mr. KENNEDY. No, sir.

Mr. HANSEN. You never have?

Mr. KENNEDY. Not to my knowledge.

Mr. HANSEN. No place in public record that you referred to a list? Remember, you are under oath.

Mr. KENNEDY. I am well aware that I am under oath. I cannot recall any occasion in which I stated that you or any member of this committee had a list of parks to close or sell.

Mr. HANSEN. Mr. Kennedy, in the last session of Congress we had a bill that came up that passed this House by 421 to nothing. You stood here and testified in favor of that bill, is that correct?

Mr. KENNEDY. Yes, sir.

Mr. HANSEN. Mr. Kennedy, we now have H.R. 260 before us. Tell me the difference between the two bills and why you found H.R. 260 objectionable. Would you please spell out the difference between the two pieces of legislation?

Mr. KENNEDY. Mr. Chairman, I testified before this body twice, and I would be glad to testify again if you would like. The first time I testified for the predecessor bill. The second time I testified for that portion of H.R. 260, and I testified emphatically for it, that would set up a commission that would establish standards for the appropriate enclosure of places within the National Park System.

I testified for the process that was then contemplated by that portion of H.R. 260 that would have set up an interlocking relationship between the Congress and the National Park Service in which recommendations and studies by us would be heeded by you and that we would enter into an elaborate process of keeping unsatisfactory properties out of the National Park System. I testified for that. And as you know, I testified to that extent, and I opposed for the Administration the retrospective elements in H.R. 260. We are both aware of what I testified here.

Mr. HANSEN. Mr. Kennedy, there has been no list come from this park committee. There has been no list come from the Senate park committee. Mr. Babbitt goes on and on ad nauseam about a list. Where does he get this? You don't have to answer that, I mean, that would be unfair. He is not sitting here.

Mr. KENNEDY. Thank you.

Mr. HANSEN. But one of these days he damn well will be sitting there.

Mr. KENNEDY. Can I say to you and to this committee that first of all I am grateful for your courtesy to me?

Mr. HANSEN. I am sorry, sir, I didn't hear you.

Mr. KENNEDY. I am very grateful to you for your courtesy to me under these circumstances. I thoroughly understand that feelings here are intense. And before anybody else beats up on me, I would like to say that I am grateful to you and to this committee for your courtesy to me personally.

Mr. HANSEN. Mr. Kennedy, thank you. May I ask you a question? Has there ever been a time that you, Secretary Babbitt, Mr. Frampton have sat down and decided that this was a hot button for the Clinton Administration and you would go out and make a big deal out of closing parks as Secretary Babbitt has done from coast to coast?

Mr. KENNEDY. No, sir. I have never participated.

Mr. HANSEN. You have never been part of that?

Mr. KENNEDY. No, sir. I have never participated in any efforts——

Mr. HANSEN. Excuse me. Are you aware of anything like that happening?

Mr. KENNEDY. I am not aware of any meeting of that sort occurring. It wouldn't surprise me in American political life, but I do not know of any such gathering.

Mr. HANSEN. It wouldn't surprise me either, but it would surely disappoint me, and I am frankly very disappointed in Secretary Babbitt. I can't believe he was considered for Supreme Court Justice.

Mr. Kennedy, speaking in Lowell, Massachusetts, I guess I am saying that right. Am I, Peter? You refer to target sites and hit lists that would hit the east hard. I assume you are referring to the east coast. And this is unfair, and I apologize to you because I surely hope I am not held responsible for every quote attributed to me in the newspaper when I have to stand before the bar of God.

Mr. KENNEDY. I make mistakes. I am not by any means perfect, but I would be immensely surprised if at any time I referred to a hit list. I can easily, easily understand my saying that the preferences in this committee run toward western parks.

Mr. HANSEN. How come Mr. Babbitt—he said under his watch there would be no parks closed, however right in the paper, if I may read to you, he suggested three parks be returned to the State of Virginia and Maryland, right on the heels of that. Is that hypocrisy or just a slip of the tongue?

Mr. KENNEDY. Well, the proposal to divest in the directions of the State of Virginia and Maryland of the parkway blacktop is a distinguishable act, perhaps, from the notion of divesting a park in a somewhat larger sense. I don't propose myself to seek to distinguish those actions. They do seem to have some corollary qualities.

Mr. HANSEN. I can tell you were an attorney.

Mr. KENNEDY. I guess I would have to say, Mr. Chairman, in a somewhat less circular way that the objective of trying to reduce the cost to the National Park Service of carrying functions and activities that could really readily be adopted by States and localities, an intention which I think you share and I think other members of this committee do too, the question there is what can they quickly absorb that they can handle in the ordinary course of their business. Parkways seemed, I am sure, to be a rational way of responding to that quickly.

Mr. HANSEN. Mr. Kennedy, is it true that a memorandum left your office to the superintendents of the parks telling them to call Members of Congress who voted against H.R. 260 and thank them for the vote? Is that a true statement?

Mr. KENNEDY. Let me check. No, I don't know that, and if it did—I have just checked with my staff to see whether they know of such a thing. I don't know anything about it. I would be sort of surprised, but I don't think so. I am under oath. I don't want to confirm or deny something I don't know anything about.

Mr. HANSEN. So let me refresh your memory. I will give you a copy of this.

Mr. KENNEDY. Thank you.

Mr. HANSEN. It says here United States Department of Interior, National Park Service, facsimile transmission from Ann Fagley, is that correct?

Mr. KENNEDY. Badgley.

Mr. HANSEN. And who is she?

Mr. KENNEDY. She is my chief of staff.

Mr. HANSEN. She is your chief of staff?

Mr. KENNEDY. Yes, sir.

Mr. HANSEN. This is to all field directors, subject, H.R. 260, number of pages—and it says here about this particular bill, and here are the Democrats who voted yes and the Republicans who voted yes and those who voted no.

Mr. KENNEDY. And it instructs whom to do what?

Mr. HANSEN. Well, we have heard from your superintendents that they received calls that they were told to call and thank Members of Congress. Is that correct?

Mr. KENNEDY. But not in that memorandum, sir.

Mr. HANSEN. I am just telling you what the superintendents are saying.

Mr. KENNEDY. Well, you asked me about a memorandum which went—I don't know what some superintendent——

Mr. HANSEN. What is the purpose of the memorandum, then?

Mr. KENNEDY. We inform our people all the time as to what votes in Congress are. Let me be sure that I respond to you, since I am under oath here, sir, that I don't know of any instructions to superintendents to make phone calls to any Member of Congress on any subject. I don't know of any.

Mr. HANSEN. If there was, would you feel that would be a violation of the Act as we talked about earlier, interpreted by the Attorney General under President Bush?

Mr. KENNEDY. Is it that someone were to instruct a superintendent to get in touch with a Member of Congress about pending legislation? I should think that would not be appropriate. In fact, it seems to me very inappropriate.

What is inappropriate about it is the notion that somebody's superior tells them to do something that they might not want to do. That is inappropriate. I would imagine that if somebody were to tell somebody on the telephone why don't you call up somebody and thank them for having done something, that would not be inappropriate.

Mr. HANSEN. Mr. Kennedy, did you call any Members yourself about how they were going to vote on H.R. 260?

Mr. KENNEDY. Did I talk to Members about H.R. 260?

Mr. HANSEN. Yes.

Mr. KENNEDY. Yes, indeed, sir.

Mr. HANSEN. And did you lobby them to vote against it?

Mr. KENNEDY. I offered my views on that subject repeatedly—and they were exactly what I testified here. I spoke to Members privately and publicly about my views with regard to this subject, yes, indeed, sir. I think that is appropriate.

Mr. HANSEN. And you made personal phone calls to Members, is that right?

Mr. KENNEDY. On the subject of pending legislation, and the question is what is my position, yes, indeed, sir.

Mr. HANSEN. Well, wait a minute. You just added something to that. You said when they requested it. Did you ever do it unsolicited?

Mr. KENNEDY. It is my view that I am free to talk to a Member of Congress directly at any time. If there is anything wrong with that, I would like to know about it.

Mr. HANSEN. And lobby on legislation, that is also your view?

Mr. KENNEDY. It is my understanding of what the Attorney General said that a direct conversation with a Member of Congress about pending legislation is absolutely appropriate.

Mr. HANSEN. So it is your view that in an unsolicited way you can call any Member of Congress and lobby any piece of legislation that you feel is appropriate, is that correct?

Mr. KENNEDY. It is extremely difficult to make a distinction between a solicited and an unsolicited conversation with a Member of Congress.

Mr. HANSEN. Did you call Tony Beilenson unsolicited and tell him you wanted him to vote no on this bill?

Mr. KENNEDY. I wouldn't think of telling a Member of Congress what he should or shouldn't do. I can express my view of legislation any time, I think.

Mr. HANSEN. Did you send Mr. Beilenson a letter?

Mr. KENNEDY. I may very well have sent Mr. Beilenson a letter, and I would do so to express my view of any legislation. Direct discussion with a Member of Congress seems to me absolutely a part of my job as long as what I tell them is in accordance with what I have said publicly.

Mr. HANSEN. Mr. Kennedy, I am not sure if you spoke for or against this bill on making a career employee the director of the National Park System. Would you mind telling us again in clearer terms did you speak for or against, and if you are for, you offered a caveat that you thought it should be cleaned up in some areas? Do you want to respond to those three quickies?

Mr. KENNEDY. You want my personal view of this. I will give it to you.

Mr. HANSEN. You have the perfect right to give your personal view.

Mr. KENNEDY. Sure. My personal view about this is you ought to go for the best person you can get.

Mr. HANSEN. Regardless if he is in or out of the Park Service?

Mr. KENNEDY. Absolutely. If you can get somebody who can run this system, deal with you, deal with the Congress, deal with the press, deal with the system, cope in the city of Washington and have a lot of experience managing Federal or State parks, I think that is wonderful, but if the choice lies between somebody who has only been a park manager and somebody who has the rest of the necessary qualifications, energy and willingness, I would go for the latter.

Mr. HANSEN. Thank you. Mr. Hefley.

Mr. HEFLEY. Thank you, Mr. Chairman. I am almost hesitant to follow this, and I think Roger would just as soon we didn't follow it. Roger, you and I have had lots of talks about H.R. 260.

Mr. KENNEDY. Yes.

Mr. HEFLEY. And you probably have as good a feeling of Mr. Vento's and my intentions with H.R. 260 as anybody, because we have shared this back and forth long before it was introduced.

Mr. KENNEDY. Yes, indeed.

Mr. HEFLEY. In your best judgment, was there ever any indication that Mr. Vento or I or Mr. Hansen was introducing this bill in order to close any parks?

Mr. KENNEDY. For the answer to your question—I am waiting for Mr. Richardson to show up, because I have been chastised, and Mr. Richardson, I know, is prepared to tell you that I have been chastised for the admiring things that I have said about you and Mr. Hansen with respect to this and other legislation. I don't regard you and Mr. Hansen as enemies to the parks and I never have, and I have never said you were. I don't think that you and Mr. Hansen and Mr. Vento had it in for the National Park System. I never thought so, and I don't think so now.

I think that your endeavor, together with Mr. Miller's, was to do the best you could to prevent there being any properties put into the national parks that don't belong there. And I think that you were attempting to set up a system which would make that less likely to happen. And I think along the way it wouldn't have broken your hearts, any of you, if in the course of establishing those criteria, if the consequence was that some now in were to drop out over time after appropriate scrutiny. But the answer to your question is I immensely admire the motivation of you, Mr. Hansen, Mr. Vento in creating the legislation that you did. And I have never said anything otherwise.

Mr. HEFLEY. You didn't have any feeling that any of the three of us set out, or this committee set out to damage the park system.

Mr. KENNEDY. If "hell, no" is an expression appropriate in the committee, certainly not. I have said so with some regularity, publicly and privately.

Mr. HEFLEY. Mr. Hansen had talked to you about this list idea, and I think you have already answered this, and I apologize for asking again, but you and I never discussed a list, did we?

Mr. KENNEDY. No, sir, never.

Mr. HEFLEY. You didn't show me a list; I didn't show you a list?

Mr. KENNEDY. No, sir, never.

Mr. HEFLEY. Mr. Vento and I in two or three, four years of working on this, we have never talked about a list?

Mr. KENNEDY. No.

Mr. HEFLEY. But Mr. Babbitt does talk about a list, and he was at Fort McHenry the other day making the statement that if this bill passed, Fort McHenry would close. He stood in a city park, had nothing to do with what we are talking about, but he didn't know that, evidently, and he said if H.R. 260 passes, the city park will close, too. He is going around the country making a crusade out of standing in parks and saying they will close if H.R. 260 passes. Evidently he has a list in his mind.

Mr. Richardson passed out on the floor during the debate a map of the United States pointing out the parks that are going to close, I don't know where he got that, if H.R. 260 passed. But in our conversations I have continually told you, have I not, that I don't think any parks that amount to anything are going to close? Yes, something might be inappropriate and——

Mr. KENNEDY. Mr. Hefley, that is exactly the terminology that you have used with me throughout our entire discourse for several years, just what you just stated and nothing other.

Mr. HEFLEY. Then I guess you can't answer this. Mr. Hansen asked it, and you can't answer it. We do need to get Mr. Babbitt here and find out where he got in his mind this list. I hate to suggest that Mr. Babbitt is just simply dumb and that he doesn't understand the legislation. He has plenty of people to help him with that. And I hate to imagine that he is deliberately being dishonest or that he is deliberately trying to politicize this for political gain.

It is one thing maybe to beat up on Members of the other party like that, but for crying out loud, he is beating up on the guy that was Mr. Parks in this country for years, who led the way in parks for years in his own party. So I am not asking you. I guess we will have to get him in here. I don't want to put you in that kind of position.

Mr. KENNEDY. Once again, I am very grateful for your courtesy. I am sitting here for myself under oath testifying what I believe to be true, and I would just as soon not have to testify on behalf of anybody else.

Mr. HEFLEY. Surely. Well, let me ask, now as I remember your testimony on H.R. 260, you liked the basic concept. You did the first time. You did the second time. And the second time you said if it was prospective, if we were developing criteria prospectively about——

Mr. KENNEDY. Yes.

Mr. HEFLEY [continuing]. you know, that this was great.

Mr. KENNEDY. Not only that, I think we ought to get on with this. I hope that we can get through this current climate. You folks have got a lot of other things to do, but I very much hope we can get on with this business of taking care of this problem. The sooner we can get back to doing the real work, the better.

Mr. HEFLEY. Believe me, those of us up here would like to get to that place as well.

Mr. KENNEDY. Sure. I will do anything that I can administratively to get forward with the objectives that you and Mr. Vento and Mr. Hansen have for helping us to prevent the intrusion in the National Park System of places that don't belong there.

Mr. HEFLEY. Since we admit that not much of anything is going to drop out anyway through this criteria development and evaluation, if we took that part out of the bill and made it strictly prospective, then as far as you can tell at this point——

Mr. KENNEDY. Mr. Hefley, the one thing I am absolutely sure about is that the testimony that I gave the last time round went through the Office of Management and Budget and a lot of other screens. And it said we are for the development of this process of making it tough to get the junk into the parks and a partnership between the Park Service and Congress in doing that.

I am being instructed as I am sitting here that there is in the legislation a list—that it requires a list by the commission of the parks where NPS management should be terminated. If I responded earlier saying that there is no list in the legislation, I just want to be sure that since I am under oath I state with accuracy what is and isn't. I didn't know the word list appeared in the legislation. Let me say this, however. I know of no list or hit list or loss list or whatever. This is a different matter. It is just for precisional language that is there.

Mr. HEFLEY. And then this process, if we took that part out, do you think it would strengthen your hand in the Park Service?

Mr. KENNEDY. I do very strongly. I think that is really necessary for the Congress and the Service professionally to require of each other that, to stand out and take a position on what does and doesn't belong in the National Park System, stipulating carefully the criteria for which those places should be selected. We all agree on that.

Second, I think we agree that the people who do that selecting should be the best possible folks in this country that understand the mission of these places. They are educational institutions as well as places to protect. That is crucial to do and the criteria for their selection are very important. As you know, we have tried to set up a National Parks Advisory Commission, which is an administrative action. We have done that with those kinds of people on it. I would like to submit for the record, if it is of any use, who those folks are so that people can get a look at the kinds of people who ought to do this work. And I think we ought to get on with this, the sooner the better.

[The list may be found at end of hearing.]

Mr. HEFLEY. Mr. Kennedy, thank you very much.

Mr. KENNEDY. Thank you.

Mr. HANSEN. I thank the gentleman from Colorado. What I think was interesting there in that exchange is it says there is no list. It says in the bill the list will be developed.

Mr. KENNEDY. Sure, exactly.

Mr. HANSEN. There is no list, so that is quite a distinction between what was said.

Mr. KENNEDY. There is. I didn't want to confuse this.

Mr. HANSEN. I hope my friends on both sides of the aisle realize that Mr. Kennedy under oath has stated there is no park closing list and this bill closes no parks whatsoever, number one. Number two, it does not sell any parks. And I appreciate your candor and honesty. I think one thing that was interesting is Mr. Kennedy was on C-Span with Brian Lamb and stated there, I have the tape if you folks would like to watch it, that he even felt a handful of parks should be closed, which is interesting. That is something we have never said.

But I have said in this committee that I didn't think that Snee Farm really deserved to stay open, but that was for the benefit of Paul Pritchard. Let me just ask you one other thing. In regard to this, do you take direction from Mr. Pritchard? One of his people at Utah State University said nobody in the Park Service dared do anything without talking to them. I was offended by that remark, and I would like to hear your comment on it.

Mr. KENNEDY. I have taken a couple of oaths. I took one this morning that I have taken before, but I also took an oath of office.

Mr. HANSEN. Pardon me, sir?

Mr. KENNEDY. I also took an oath of office, and that oath of office makes me beholden to the President of the United States and to serve the Constitutional duties for which my office is established. I don't report to anybody outside the government of the United States for anything. And that goes for anybody.

Mr. HANSEN. Well, I would think that we all decided we were going to serve the people in these things. We weren't subjected to lobbying groups.

Mr. KENNEDY. I just want to be really clear about that. I don't want to permit there to be any question as to the independence of the National Park Service from any group of people who have other positions.

Mr. HANSEN. Did they help you in any way write any of this legislation, like the concessions bill or your version of this one? Did they have to put ink to the paper on any of those?

Mr. KENNEDY. Nothing that I have testified for, sir, no.

Mr. HANSEN. I see, thank you.

Mr. KENNEDY. I am sorry, Mr. Chairman. I am under oath.

Mr. HANSEN. I understand that.

Mr. KENNEDY. I just want to be real clear.

Mr. HANSEN. I understand that. You know, we listen to lobbyists. For what purpose does the gentleman ask to be recognized?

Mr. RICHARDSON. Strike the requisite number of words.

Mr. HANSEN. It is the rule of this committee we take people in order, and I have always deferred to the ranking Member, and I will at this time, but from this point on I am going to take people by how they arrived here. We have a list and the next one would be Mr. Pombo. However, Mr. Pombo, Mr. Allard has a budget meeting that is very important and he would like to take your time. Is that all right? Mr. Richardson.

Mr. RICHARDSON. Well, thank you, Mr. Chairman. Let me say that I am quite disturbed by just having been here two minutes, and I understand that the gentleman from Colorado mentioned my name in the defeat of H.R. 260. Let me just make several points. Number one, I think that Roger Kennedy is an honorable public servant, and I think this country should be grateful to him for serving his country. And I resent the fact that he has been put under oath in a hearing that I don't believe has anything to do with H.R. 260. We are talking about H.R. 2067, 2025, 2465.

Point number two, let me just say that the reason H.R. 260 was defeated was because it was a bad bill, and there were a number of Members on the majority that also joined Members of the minority in defeating it. We had differences on the bill. The view of the majority prevailed. The lists that were prepared I will take full responsibility. The concessions bill that Mr. Kennedy was talking about is my bill. I have introduced it. I take responsibility.

So I think the fact that H.R. 260 was taken out of reconciliation, there must be a reason. That was done by your leadership. The reason was that a bill like that needs more work. I am ready to talk about how we can deal with better park management, and I had an alternative. And the reason that we have this difference is because my alternative wasn't offered as an amendment.

Now, I think the Chairman has run this committee very honorably, and I think this Chairman has been fair. We have disagreed frequently, but to bring this good man here and subject him to whether he is influenced by environmental lobbyists or whether he is influenced by nefarious forces, I think is just not good government. So I think if the gentleman from Colorado has something to say to me, I think we should settle these things here and not sub-

ject Mr. Kennedy to questioning that impugns his integrity or his ability to run the Park Service.

Mr. Chairman, I wish I didn't have to say this, but from what I understand that has transpired, at least in my absence, I would like to know, are we putting the other witnesses under oath in this hearing, too? Is it just Mr. Kennedy?

Mr. HANSEN. It is just Mr. Kennedy.

Mr. RICHARDSON. Well, if so, I think that is wrong. I think everybody in this hearing should be under oath. Why should he be subjected to being under oath? And this is not a hearing on H.R. 260. This is a hearing on three other bills.

Mr. HANSEN. The gentleman yield on that point?

Mr. RICHARDSON. Yes.

Mr. HANSEN. It is a hearing on H.R. 2464, and this is a bill to amend the public law on H.R. 2067 and also H.R. 2465, and the whole thing is about the Director of the National Parks. That is the whole substance of that bill. I think this is perfectly relevant to what we are talking about, because that is what we are discussing, is what this man does and what his qualifications are. I don't think it is fair for the gentleman to get into talking about whether or not leadership pulled that.

It was really at the suggestion of myself and Mr. Hefley they pulled it because it doesn't pass the Byrd rule, we all know that. We only put it in to keep you people a little honest on a few things, which I appreciate, Mr. Richardson.

The gentleman from Colorado.

Mr. ALLARD. Mr. Chairman, I thank you for allowing me to speak because I have to be on the floor on the Budget Reconciliation Act, and, I also thank Mr. Pombo, the gentleman from California, for allowing me to step in his time. Let me tell you a little bit about testimony that occurred before my committee, the Resource Conservation Committee. I asked the head of the Forest Service about a bypass flow issue. What he told me in committee was not true. I asked during the confirmation process on Dan Glickman about bypass water flows, and what he told in front of my committee was not true.

I think that it is time that we begin to pull the Administration and put them under oath in front of our committee. We called for records that have verified that the bureaucracy below the Secretary of Agriculture not only was not being fully honest with him, but not being fully honest with my committee. This is not going to be the only witness that comes out of this Administration that is going to be under oath, because when they testify before my committee, I am going to begin to put them under oath because they simply have not been straightforward on the facts.

And this is all going to become public, because I put in a request for those memos, and it is just going to be a matter of time. I am going to suggest to this committee that we ask for the memos that have been circulated in the parks department to find out what has been done as far as setting priorities. And this particular issue, I think, would serve this committee very well to make that request.

Mr. RICHARDSON. If the gentleman would yield to me.

Mr. ALLARD. I will be glad to. Let me finish my statement, because I have a limited number of time.

Mr. RICHARDSON. I won't take your time.

Mr. ALLARD. I will yield when I get finished, OK. Now, Mr. Kennedy, do you remember testifying, and I asked you the question specifically, that you felt that we needed to establish priorities in the park, that we were bringing in too many parks and as a consequence of that it was depleting from the maintenance needs—particularly in relation to Rocky Mountain National Park?

Mr. KENNEDY. Yes, sir.

Mr. ALLARD. And yet after making that statement, were you aware that the Secretary of Interior, Mr. Babbitt, came into Rocky Mountain National Park and said that that park was going to be closed?

Mr. KENNEDY. Mr. Allard, I am not going to accept responsibility for the utterance of anyone else, anyone else.

Mr. ALLARD. I understand that, but were you aware that he made that statement in the Rocky Mountain National Park?

Mr. KENNEDY. Thereafter, yes, sir. Thereafter.

Mr. ALLARD. OK, now that you have been made aware of that, would you be willing to put out a press release saying that you believe the statement that you just made, that there is no list for park closure, that Rocky Mountain National Park will not be closed, out of your committee. I think that is important, because as somebody who is trying to provide in a professional manner to this committee the real facts, I think that you would be willing to want to make the record publicly clear as to what you said before this committee. Would you be willing to do that?

Mr. KENNEDY. I have testified before this committee, Mr. Allard, and I guess I have tried to do that as directly and honestly as I can.

Mr. ALLARD. So you would be willing to put out a press release.

Mr. KENNEDY. I didn't say I would do that, Mr. Allard.

Mr. ALLARD. Well, why wouldn't you be willing to do that?

Mr. KENNEDY. Because I don't think that testimony that is offered before a committee of Congress is the same thing as a press opportunity. I really don't.

Mr. ALLARD. But it is clarifying the public record.

Mr. KENNEDY. Sure. I don't want to bicker with you at all on my views. I have tried to state those this morning, and I think you are pretty clear about what I think about this.

Mr. ALLARD. Yes.

Mr. KENNEDY. I don't want to make promises to you that I am going to issue press releases, because I am just not going to do that. I am here testifying before a committee of Congress, and that is really as far as I think I have to go this morning.

Mr. ALLARD. Have you ever issued a press release on your testimony before a committee of Congress?

Mr. KENNEDY. Probably we have. Have we? Yes. February 22, 1995.

Mr. ALLARD. Sure, OK. Now, that is all I need for the record.

Mr. KENNEDY. Sure.

Mr. ALLARD. Why wouldn't you be willing to issue a press release on your testimony before this committee today? This is a very important issue for this country that they understand the facts.

Mr. KENNEDY. Right, they don't have to do a lot more than, I guess, they did on February 22, "Roger Kennedy urges careful study of future additions to the park system." And it goes down through my testimony in which I urge fairly vigorously that we undertake such a study and establish the criteria and just exactly what I said again today. I would be happy to say that again.

Mr. ALLARD. Very good.

Mr. KENNEDY. I have got nothing to hide here. I have been stating my views all morning.

Mr. ALLARD. OK.

Mr. KENNEDY. And I am sure prepared to do it again.

Mr. ALLARD. OK, and you would state in that press release exactly what you stated to Mr. Hefley and the Chairman of this committee that there is no list for closure?

Mr. KENNEDY. In his bill? No, there is no list of closure in this bill. I have said that. I will say it again. I will say it many times. I will say it any time anybody wants to ask me.

Mr. ALLARD. Well, I hope that you will put out a press release, and in fact I request that you say affirmatively that you will do that, because I think that is important that the people in this country understand the facts. And all you are doing is helping us clarify that record.

Mr. KENNEDY. Sure, I am testifying as clearly as I know how, and I will keep on doing that.

Mr. ALLARD. Mr. Chairman, I just have to express my disappointment in this Administration both before my committee and also this committee, because you need to help us get the facts out there, and it is very important that there be some truth in what is said. It is unfortunate that we have to put you under oath. It is unfortunate that when they testify before my committee, the head of the Forest Service is going to have to be put under oath, but under the present circumstances it seems to be necessary because your boss is out there in our districts and he is distorting the facts.

Mr. VENTO. Mr. Chairman.

Mr. ALLARD. I will be glad to yield back one minute to the gentleman from Minnesota.

Mr. VENTO. Well, I won't take your time. I think that most witnesses that appear are considered, in essence, under oath by the rules unless we have changed the rules. Obviously there is the procedure of actually formally swearing. Although I certainly would take issue with the gentleman on some issues, I just wanted to point out the fact that Members are considered under oath when they testify.

In essence whatever is your problem; the issue you were raising earlier with the Department of Agriculture or with anyone; they can't come before us and state this. I think much of what has been discussed here—how you are going to deal with Superintendent Jones or how you are going to deal with an issue of misunderstanding between what somebody in the field is interpreting, whether you want to do it through a press release and communication. I assume that most often there are more efficient ways of doing that than through the press.

Mr. ALLARD. Reclaiming my time, your point is well made.

Mr. VENTO. Excuse me, Mr. Allard.

Mr. ALLARD. Reclaiming my time, your point is well made, and that is one reason why I am so very disturbed about the testimony that I received before the committee and why I have supported the Chairman of this committee in trying to get the truth out. And I would solicit in the strongest terms from Mr. Kennedy that he help us get the truth out.

Mr. VENTO. I think that the point is that if we begin to swear everyone, then the issue, I suppose assumes that if somebody isn't sworn, then they are not under that particular legal obligation. I think the convenience of doing that at various high-profile hearings when we have them is probably justified, but to depreciate, in essence, the testimony or to suggest that it is less than candid, I mean, our standard here ought to be that it is always correct and that you are always responsible.

Mr. ALLARD. Good, and reclaiming my time, I appreciate your comments. You have just strengthened my case for the testimony received in front of my committee.

Mr. ROMERO-BARCELÓ. Will the gentleman yield?

Mr. ALLARD. Well, I am not sure how much time I have left.

Mr. ROMERO-BARCELÓ. Mr. Chairman?

Mr. HANSEN. We have no light yet.

Mr. ALLARD. But I will go ahead and yield to the gentleman.

Mr. ROMERO-BARCELÓ. Thank you, Mr. Allard. I think it is unfair to ask the witness to issue a press release. I think, Mr. Allard, you could issue a press release.

Mr. ALLARD. Well, that doesn't surprise me that you think that is unfair, but, reclaiming my time, what is the problem with having him help us get out the true facts?

Mr. ROMERO-BARCELÓ. Right, but you can have somebody ask him and the press ask him, he will answer. One thing he is answering a question from the press and the other thing he is putting out a press release which puts him at odds with the Secretary of his department. Now, I think it is unfair to ask a person something like that. I think, as I said, you can have the press ask him and he will have to answer the press what he has told at this committee. He cannot lie to the press.

Mr. ALLARD. Reclaiming my time, let me make this point. If anybody on this committee makes that press release, it is considered as self-serving. If the Secretary of the Interior makes that release, it is considered somebody who has a special interest. If it comes from the head of the Department of Parks, it is presumed to have some validity in that he is doing his best job and that it is supposed to be supported by sound fact.

That is why he is testifying before this committee and that is why that is so very important that we get the truth out there, what is really happening as far as parks and that the bills and the discussion that we are having before this committee is not park closure, it is the process of establishing priorities in full cooperation with the Department of Parks. And I don't think that has been made clear, and I think it does need to be made clear.

Mr. ROMERO-BARCELÓ. But you can have a press release supporting him.

Mr. HANSEN. OK, time is the gentleman's. We are going to give you your own time here in just a second.

Mr. ROMERO-BARCELÓ. OK.

Mr. HANSEN. Let me just say this. We are going to spend too much time on this. I can see that now, and I would like to move this thing along and put everybody on five minutes—we have a lot of ground to cover and we want to cover it in an hour, so we are going to move here if we can.

Mr. ALLARD. Thank you, Mr. Chairman. I yield back the balance of my time to the gentleman from Colorado.

Mr. KENNEDY. Mr. Hansen.

Mr. HANSEN. Let me just say something. Mr. Kennedy, we would ask you to cooperate with us, to take H.R. 260, sit down with whoever you have to, but work out something that is a good piece of legislation that we can all stand up, Mr. Richardson, Mr. Vento and myself, and say this is a good piece of legislation, because frankly, you need it.

Mr. KENNEDY. Yes, sir.

Mr. HANSEN. And I would like to do that. Tell Secretary Babbitt to stop playing politics with it. I apologize for my friends over here. And let us get the show on the road. If we can get this animosity behind us, I would appreciate it.

Mr. KENNEDY. I would, too. Mr. Hansen, may I ask you in the same spirit to examine the press release that I just handed to you and to reflect upon it for a moment?

Mr. HANSEN. I just looked at it and just talked to Mr. Hodep about it.

Mr. KENNEDY. Good, thank you. I have a grave and continuing respect for your integrity, and I seek to preserve my own. And I would be most grateful for your looking at it, sir.

Mr. HANSEN. OK, this is what we are going to do from here on. The gentleman from Puerto Rico will be recognized. Following him, Mr. Pombo, Mr. Vento, Mrs. Chenoweth, Mr. Doolittle, Mr. Cooley, Mr. Hayworth, Mr. Torkildsen, Mrs. Cubin, Mr. Radanovich. And I see we have lost half of them already. And I am going to limit you to five minutes. Is that all right with everybody? Appreciate that. The gentleman from Puerto Rico has the floor.

Mr. ROMERO-BARCELÓ. I need less than that, Mr. Chairman. I just wanted to add, as I said before, I think it unfair to ask the witness to issue a press release. The witness can answer the press questions and Mr. Allard or anyone here can ask a member of the press to ask him the questions. That is something different than issuing a press release which puts him at odds with the Secretary of his department. I think that I just want to put that for the record.

And, Mr. Kennedy, I would like to ask you something about H.R. 2025 regarding the fees that are proposed to be charged. Would I be correct in understanding that the proposed bill would require the department to charge market fees for a wedding and could not only charge the services, for instance?

Mr. KENNEDY. Yes, that is right. If somebody goes into a park facility and wants to have a wake or a wedding there, the notion is that you charge it whatever somebody else would, yes.

Mr. ROMERO-BARCELÓ. But under the proposed bill you would charge them a market fee?

Mr. KENNEDY. Yes, sir.

Mr. ROMERO-BARCELÓ. At this point in time you only charge the cost of servicing?

Mr. KENNEDY. Yes, and it means, of course, that you don't pay for the——

Mr. ROMERO-BARCELÓ. How much revenue does that actually represent?

Mr. KENNEDY. I would like to file with you schedules that I just got this morning that tell us how much we are getting and how much we think we can get, which is a fair sum of money. The big thing here is it is just unfair to the taxpayer that we are underwriting film makers coming into parks and paying essentially stuff for them that they should be paying themselves.

Mr. ROMERO-BARCELÓ. That is why I asked you about weddings.

Mr. KENNEDY. Yes.

Mr. ROMERO-BARCELÓ. I mean, I think that film makers, all commercial activities should be charged market price.

Mr. KENNEDY. Sure.

Mr. ROMERO-BARCELÓ. I have no qualms with that. What I am concerned is about weddings. If you require market prices for weddings, it seems to me that a lot of the weddings that are now being held there will not be able to be held because some people cannot, will not afford the higher fees.

Mr. KENNEDY. We can work on that with you. The notion here essentially is it is a public facility that taxpayers are paying for, and it isn't fair for somebody to have a fancy wedding——

Mr. ROMERO-BARCELÓ. That is what I am concerned with, that we don't limit——

Mr. KENNEDY. No, the intention is not to force people out of these places.

Mr. ROMERO-BARCELÓ. The same thing with activities by the Boy Scouts or school activities.

Mr. KENNEDY. Sure.

Mr. ROMERO-BARCELÓ. That if you charge them market prices, maybe you will be just eliminating those types of activities.

Mr. KENNEDY. Yes, we are very sensitive to that problem and will set those fees accordingly.

Mr. ROMERO-BARCELÓ. And would the bill allow you to do that?

Mr. KENNEDY. Yes, indeed, it would.

Mr. ROMERO-BARCELÓ. OK, that was my concern. Thank you.

Mr. HANSEN. Thank you.

Mr. KENNEDY. School activities are free anyway under the bill, yes, sir.

Mr. HANSEN. Excuse me. Mr. Pombo.

Mr. POMBO. Thank you, Mr. Chairman. Just to follow up on something that Mr. Richardson said, I would have to agree with him that I believe that all people who testify before the committee should be put under oath. As my past experience with the Endangered Species Act, I would say that all people who testify should be put under oath and would suggest that to the Chairman.

Mr. Kennedy, just so I understand this, I have gone through lists of press accounts of what has happened over the past couple of

months and I understand that you do understand H.R. 260, you do understand the bill and what is included in it. Would there be any justification by what was in that bill as it passed committee to say that we would close the Gateway Arch in St. Louis or that we would close the Golden Gate Recreation Area in San Francisco or that we would take away the James River Park in Richmond? I could go on and on.

There are literally 50 different parks that people know and recognize the name, Sleeping Bear, Dunes National Lakeshore, it goes on and on and on. I thought I understood that legislation, and nowhere in it did I see the ability, as quoted here, to put the Gateway Arch in St. Louis on the auction block.

Mr. KENNEDY. I didn't make any such statement, as you know, Mr. Pombo, and I can't comment on anybody else's oratorical style.

Mr. POMBO. I am not asking you to comment on someone else's oratorical style or to verify comments that someone else made. I am just trying to understand within that legislation. Was there somewhere in that legislation that it said that we would put the Gateway Arch in St. Louis on the auction block?

Mr. KENNEDY. There is nothing in H.R. 260 that states that the arch in St. Louis will be put on the auction block.

Mr. POMBO. Is there anything in there that would lead you to believe that that would be put on the auction block?

Mr. KENNEDY. Gee, I don't want to have to argue H.R. 260 and its implications retrospectively here again. I have done that through two full hearings.

Mr. POMBO. I am just trying to understand this because I am very concerned about that, the legislation itself, about the state of our national parks, going through the Inspector General's report and from past testimony that has come from the Inspector General.

Mr. KENNEDY. Sure.

Mr. POMBO [continuing]. About what is happening about the lack of accountability, the lack of funds, the lack of suitable amenities for the public to use those parks. In many cases we have had parts of our national parks made off-limits to people. A number of things I am very concerned about. I am very concerned about statements that say that something that may or may not pass this body and be signed into law may close all of these national parks. I mean, these are places that people know, that they visit on a regular basis.

I mean, the Golden Gate National Park in San Francisco is probably one of the most visited national parks in our country. It is something that is very recognizable, but there are statements that somehow we are going to put them on the auction block. In fact, I have a statement here that says you have got a river wonderland here, you can't take it for granted, the United States Congress is getting ready to take it away from us. I am very concerned about that, and I am just wondering where in the legislation it allowed us to put these sites on the auction block.

Mr. POMBO. You are not aware of anyplace in the legislation where it allowed us to put the Gateway Arch on the auction block?

Mr. KENNEDY. Mr. Pombo, at risk of extending this discussion, I guess I probably better say that I never found in this legislation

any list of any kind, and none of the places to which you refer could be on a list that doesn't exist.

Mr. POMBO. Let me ask you one thing. I think you have established in your previous statements that Mr. Hefley and Mr. Hansen and Mr. Vento and Mr. Richardson were honorable men and you felt that they had worked with you extensively on the development of this legislation over the past five years or so.

Mr. KENNEDY. Yes.

Mr. POMBO. You made a statement also earlier that you had never personally attacked any of the Members of Congress.

Mr. KENNEDY. That is right.

Mr. POMBO. I was wondering, this statement, and it is in quotes, but as Mr. Hansen said I would hate to have to stand to anything that was ever written about me in the papers over the past three years, but it says, "the simple fact manifests a condition on the part of the militant ignorant that we don't care enough to rise in defense of these properties."

Mr. POMBO. Are you referring to the other 417 Members?

Mr. KENNEDY. No, sir, and thank goodness, I have a tape of the speech I gave, and I would just be delighted to have any Member of Congress——

Mr. POMBO. Would you submit it for the record?

Mr. KENNEDY. Oh, sure, with pleasure.

Mr. POMBO. OK, without objection, Mr. Chairman. But could you comment who were the militant ignorant? Is that the rest of us?

Mr. KENNEDY. I was speaking at that time. I recall that passage quite clearly. I was speaking in defense of science, in defense of the arts and humanities. I spent a lifetime writing history. I take it very seriously.

Mr. POMBO. I take history very seriously, as well.

Mr. KENNEDY. I know you do. I know you do, and I have never, sir, nor do I intend to attack you personally or call you names. I don't do that.

Mr. POMBO. Who are the militant ignorant?

Mr. KENNEDY. May I finish what I was speaking about at the time? I was talking about historic neighborhoods and the destruction or the heedlessness in this country which I fear has been there throughout its history with regard to the arts, the humanities, the sciences and those places, our neighborhoods and towns, which are the containers of our common experience.

In the 1950's and 1960's there were people who were, in my view, militantly ignorant in their bulldozing of and elimination of those kinds of neighborhoods and places in the name of urban renewal. And there are people today who I think undervalue the importance of learning in this country.

Now Mrs. Chenoweth and I have had exchanges about books we read. We think books are pretty important, and I remember during the course of this passage in the speech lifting a book up and saying that I thought that the record of human experience that is imbedded in literature is of great interest. I wasn't talking about Members of Congress who were against or for H.R. 260. That had nothing to do with that at all.

Mr. POMBO. The tape verifies that you were not talking about H.R. 260 at the time that you——

Mr. KENNEDY. Yes, sir.

Mr. POMBO. OK.

Mr. HANSEN. The time of the gentleman has expired. Thank you, Mr. Kennedy, for your response. We will turn to the gentleman from Minnesota, the distinguished gentleman, Mr. Vento.

Mr. VENTO. Thanks. Director Kennedy and my colleagues, the issue is that issues have been brought before this committee in full committee that we have had a hearing on stripping park designation and turning parks back over to the private sector and to the non-profit sector. I mean, that is what has happened. In fact, we went back home and the Chairman was kind to come back and hold hearings in Minnesota on that very topic.

I think the issue here that you have to realize is that perhaps in the media's eye and the public's eye, they don't necessarily differentiate one action and one hearing from another in terms of the legislation, or in terms of the message that is coming out of this committee is to sell off the parks. The message that is coming out of this committee is, in fact, to pull back from what it has been doing, what has been going on.

Now the issue with regards to H.R. 260 is that it has been up and down. I mean, this bill is three years old, and in fact it began with a base-closing type of commission structure a couple of years ago. So the history of that is that we came to the table, and we made some significant changes about a year and a half ago and moved it through the house with no opposition because we eliminated that. But obviously, the history of it and some of the statements that were made, you know, I am not like the rest of you, I probably criticize other Members of Congress once in a while.

Mr. KENNEDY. It is the epithets, Mr. Vento, to which I was referring.

Mr. VENTO. I want to be the first here to witness that I am not quite that genteel. I think we have to admit these things to ourselves, at the very least, if not in public. And the fact is that many of the statements made by myself probably then and by the advocates of it as well, attempted to portray it as a very effective bill that was going to make a real difference in terms of shaping and reshaping and reviewing the park system. That is the case.

If you look at this—the misunderstandings that have been achieved and the messages that are coming out of the committee—if you don't like the message, then stop, you know, opening and——

Mrs. CHENOWETH. Will the gentleman yield?

Mr. VENTO. No, not at this time. But then let us not open up ANWR to oil and gas development. The public does not necessarily distinguish and the media does not always distinguish in terms of these actions. This is what has actually happened before this committee: the issue of closing parks, of turning them back over to the private sector, of stripping designation, of turning back to the States, and these are the actions. I am talking parks now specifically, so, I mean, there should be no confusion, you know, at least with regard to the members here.

And to drag the Park Service Director here and say well, have you been lobbying, have you been? The fact of the matter is that we all know that we demand that this man and a lot of other people offer testimony and give us their opinions with regards to these

issues. And we do so and they do so, as I said, in essence under oath. And so confusion has ensued here. This bill was moving forward and that was the issue and it got attached to it a lot of other issues. My feeling is that that wasn't the place to make the fight in terms of issues. That was a study bill. You know, we should be able to live with a study bill, but apparently that wasn't the case.

It became the contest and became the author, the sponsor, whoever else was behind it notwithstanding the fact that, you know, there were some friends there behind it. And that should have moved through here and shouldn't have got caught up in that particular controversy, but it did.

As far as I know, the Park Service Director or other members of the Administration can't use appropriated funds to lobby. We have had quite a debate about that in terms of the nonprofits this year. But there are specific laws which limit that. But clearly, they hardly have to say very much, because there is obviously a series of interest groups from the Heritage Foundation and many others that are out there adding fuel to the fire in terms of these particular issues, including the National Parks and Conservation Association. Incidentally, I might say, the chief officer of this association is the one I had tried to get appointed, as Roger Kennedy knows, to be the park director. I wasn't for Roger Kennedy. I was for Paul Pritchard being the director.

So the point is that here I was on the other side of this issue with you, Mr. Chairman. So obviously I think that in looking at that I am pleased with Roger Kennedy. I think he has done a pretty good job. I think that Roger Kennedy, if anything, had every reason to have questions about Paul and others so his independence should be established just by that mere fact in terms of what has gone on here.

Now the bills we have before us, I don't know that there is great opposition to them. Whether or not that person needs to have Federal experience in terms of land management, I think that is the issue here. I think all of us agree that anyone that directs the Park Service ought to have professional experience in terms of cultural resources, recreation, natural resources. I think that that is what the issue is with this. I don't think there is opposition to it.

The minor park boundary adjustment issue, I think most of us did not expect the discussion to evolve to H.R. 260, but I think what this serves notice to me and to the Chairman and others is that we are going to have to resolve this particular issue. It is an important issue. We should be able to do the study bill. I think that Congressmen Hefley and Hansen have gone a long way in terms of meeting what the objections were. I think it is a good bill. We need those criteria. We need to review.

The fact of the matter is when we place some units in the park system—I chaired the subcommittee as my colleague Mr. Hansen is doing now—we don't always get accurate information. You know, we designated a Pinkney House in, I think it was, South Carolina, Charles Pinkney. It was built after he died, but the fact is we didn't have that information here. As far as I know on the committee and within the National Park Service, there was no attempt to suppress information. We simply made a judgment based on the best information that we had. There was no effort. There was no

political pressure. I don't owe Fritz Hollings anything or anyone else.

And believe me, if we had known it was inappropriate, we wouldn't have done it. But it was an honest mistake. It maybe should or should not remain in the park system for other reasons. That is the basis, that sometimes those types of errors occur. That is about as pure a one from my standpoint that I know about. But, I mean, those things happen. And it doesn't happen very often.

I thank the Chairman and I thank the members for their patience.

Mr. HANSEN. I thank the gentleman from Minnesota. I don't mean to editorialize on it, but I think this particular piece of legislation got turned into a political football that no one intended it to be turned into. No one intended to have the Secretary go out and say things or your friend Mr. Pritchard who went out and said things or people who made a lot of money on it.

Mr. VENTO. I think he was wrong.

Mr. HANSEN. I know you think he is wrong, and I think he was wrong. I was on TV with him and he wanted to keep Snee Farm alive. Even Mr. Kennedy and I agree on that one.

Mr. KENNEDY. I haven't taken a position yet on Snee Farm, Mr. Hansen.

Mr. HANSEN. Well, anyway, I am just quoting you from the thing from C-span.

Mr. KENNEDY. Yes.

Mr. HANSEN. Mrs. Chenoweth.

Mrs. CHENOWETH. Mr. Chairman, Mr. Vento just used Mr. Paul Pritchard's good name and I wanted to follow up on what he was saying, because Mr. Pritchard is president of the National Parks and Conservation Association whose annual budget is $9 million. This organization has been here testifying on behalf of the programs for the National Park Service. Mr. Pritchard said it is World War II for our national parks in an article entitled, "For Sale National Parks", *Backpacker,* October 1995. Hopefully we can counter it, but I fear we have heavy casualties. There is a litany of lists of parks. It goes on to say that even Oregon Pipe Cactus in Arizona and White Sands in New Mexico as well as national preserves like Big Cypress in Florida are on the auction block. In all, 314 units he lays out will be on the auction block. And furthermore, a woman by the name, Mr. Kennedy, of Holly Bundock, a western region spokeswoman for the Park Service stated here in quotes, "closing national parks leaves me with just one question, what do we tell our children and their children when they ask why we didn't protect them?" You know, those are pretty dramatic statements and they are coming from your employees.

Mr. KENNEDY. I know you don't mean to say that Mr. Pritchard is an employee of ours. He is certainly not that.

Mrs. CHENOWETH. But I do—I am very well aware of the close association. I do want to ask you, in responding to the Chairman's questions about lobbying, if you had a sign posted in your park that said no hiking on this trail and some guy was found hiking on that trail, it would be serious problems.

Mr. KENNEDY. It would.

Mrs. CHENOWETH. No hiking means no hiking. In an Administrative appeal if he came before a panel and said I wasn't hiking, I was jogging, this is just exactly like your answers to the Chairman.

Mr. KENNEDY. No, I don't think so, Mrs. Chenoweth.

Mrs. CHENOWETH. Lobbying is lobbying.

Mr. KENNEDY. But conversation with Congress people isn't.

Mrs. CHENOWETH. I think that the law is clear. I think the law is clear in the Reconciliation Bill from last year and in the Hatch Act. And I intend to pursue this in this committee.

And also, in your answers about the list, Mr. Kennedy, you did say that you were aware that the bill did not contain a list?

Mr. KENNEDY. I amended that in an exchange with the Chairman just to be precise, that the word list does appear, but not in the sense that you are using it, a list of parks, no.

It is here—I am sorry, just because I am under oath, I want to be sure I am explicit. On page 9 of the printed text of the bill, and this is not a list of parks to be closed. This is not a list of parks to be closed, but the word list does appear in the legislation in section 3(2). This is that the commission would recommend a list of National Park System units where national park management should be terminated, et cetera. I am just trying to be precise as to what my answer here is. I want to again say that I agreed with the Chairman earlier that this is not a list of stipulated parks to be closed now.

Mrs. CHENOWETH. Were you or are you aware of a list that was being circulated in the Interior?

Mr. KENNEDY. I don't know of any list that was circulated in Interior.

Mrs. CHENOWETH. OK. You know, you mentioned and the questioning was rather intense, but you mentioned something about, we have to come before this committee and deal with you, we have to deal with Congress, we have to deal with living inside Washington, DC. I just want to say, you know, the taxpayers have to deal with you.

Mr. KENNEDY. And you, all of us.

Mrs. CHENOWETH. And they have to deal with the agencies.

Mr. KENNEDY. Indeed.

Mrs. CHENOWETH. And they have to deal with a multitude of rules and regulations.

Mr. KENNEDY. Indeed.

Mrs. CHENOWETH. And let me tell you, there were a lot of military families who had to deal with military bases being closed, and I didn't see Interior respond with regards to that.

Let me ask you, you said you took an oath to the President?

Mr. KENNEDY. I took an oath of office that said that I would serve—I don't have the oath of office before me.

Mrs. CHENOWETH. Could you provide that, please?

Mr. KENNEDY. Oh, absolutely.

Mrs. CHENOWETH. I just want to say that in the plain reading of the law, we become frustrated when the explanations of the plain reading of the law become tortured by the agencies. I also want to state that on March 9 I asked you for some information with regards to Shenandoah National Park. I asked you for the current status of the acquisitions and an accurate report on that.

You promised me that you would have it back in 30 days. We have not heard from you.

Mr. KENNEDY. I don't know—could I check on that, Mrs. Chenoweth?

Mrs. CHENOWETH. Sure.

Mr. KENNEDY. I thought it had been submitted.

Mrs. CHENOWETH. OK.

Mr. KENNEDY. But I will recheck on it.

Mrs. CHENOWETH. In recent years the National Park Service has initiated a policy of retaining all or substantial portions of concession franchise fees without submitting such funds to the treasury. On July 25 I asked you to provide to this committee the specific citation in the existing concession law which authorizes the National Park Service to spend money on non-government buildings without authorization or to divert franchise fees which are required under the terms of the existing contract to be deposited in the treasury. I asked you for all of the agencies involved in the memorandum of understanding that you referred to and I asked you if you would provide your file for each of you to the committee for your review. That was July 25. We have not received that information.

Mr. KENNEDY. We will recheck that, ma'am.

Mrs. CHENOWETH. Would you provide it?

Mr. KENNEDY. Yes, indeed.

Mrs. CHENOWETH. Would you provide it within 30 days?

Mr. KENNEDY. I am instructed that we have done so, but we will recheck that. I don't know that personally, as to whether those submissions have, as I am instructed by my staff, been submitted, but we will recheck that.

Mrs. CHENOWETH. Thank you.

Mr. HANSEN. Thank you, Mrs. Chenoweth. The gentleman from Arizona, Mr. Hayworth.

Mr. HAYWORTH. I thank the Chairman. Director Kennedy, thanks for coming down this morning to visit with us.

Mr. VENTO. Mr. Chairman, point of order.

Mr. HANSEN. State your point of order.

Mr. VENTO. I think the rules require alternating between the Democrat and Republican side.

Mr. HANSEN. I realize they do. I was thinking back to the time of when you were Chairman of the committee and you were overburdened on that side and you would turn to me and say we will take two, one, two, one, and I was just following your procedure. Now if you would like to overrule me on that, I would be happy to——

Mr. VENTO. No, I just wanted to clarify.

Mr. HANSEN. No, I am fully aware of it.

Mr. VENTO. If Mr. Hayworth has to leave or if there is a reason for not doing it, I have no objections.

Mr. HANSEN. The only reason that I can come up with, and I am ready to stand in error here, is that Mr. Hayworth has been here since the first of the committee, been waiting patiently.

Mr. VENTO. Well, Mr. Chairman, I have no objection to making an exception.

Mr. HANSEN. We are overloaded on this side and I was following the Vento precedent that was established.

Mr. VENTO. I have no objection.

Mr. HANSEN. I want to ask one thing. When you were chairman of the committee, I came in order as a ranking member, but I always will recognize your ranking member above everybody else, and I think that is proper. So if we ever switch sides again, would you keep that in mind?

Mr. VENTO. Yes, Mr. Chairman.

Mr. HANSEN. Mr. Hayworth.

Mr. HAYWORTH. I thank the Chairman again.

Mr. HANSEN. Who was next over here, Mr. Kildee or Mr. Hinchey? I will go to Mr. Hinchey next, and I apologize if that is offensive to you. Mr. Hayworth.

Mr. HAYWORTH. I thank the Chairman. Director Kennedy, thank you again for coming by. In terms of your duties as Director of the Park Service, would it be accurate to say that you report ultimately to the Secretary of the Interior as part of your duties?

Mr. KENNEDY. Yes, sir.

Mr. HAYWORTH. Would you then please report to the Secretary of the Interior, and I look forward to an opportunity to have the Secretary in to visit with us, Mr. Chairman, but in lieu of such time when he does appear, would you please report to the Secretary my very genuine disappointment that he has decided to take his department and use it as a blunt instrument in a cynical effort to reelect this President. I will offer you specific examples. On two occasions that I know of, first of all at Tufts University and then in Colorado, when he compared those of us who may have a different opinion on environmental legislation to those who perpetrated the attack on Pearl Harbor. He said of those of us, "my friends, they are guilty of the biggest sneak attack on America since what transpired at Pearl Harbor." When I asked the Secretary personally in an informal setting at a meeting with the western caucus, and the Chairman will bear me out on this, as will other members, he said, "Oh, come on, J.D., you know how this game is played."

Let me suggest to members of this subcommittee and to you, Director Kennedy, and ultimately to the Secretary of the Interior and to my other friends from the Administration that may be sitting here, we are not engaged in a game. I used to cover games. There is a big difference. There may be a competition of ideas, but we are talking about the future of families and the future of this Nation and the future of our natural resources. And I do hope, Mr. Chairman, that we will invite the Secretary and we will put him under oath and we will give him the chance to respond to that outlandish type of criticism.

Now points have been made earlier today, newspaper articles, other comments from the Secretary about this phantom hit list. You have been very gracious, Director Kennedy, in again disavowing any knowledge of some secret hit list, even while you were careful to delineate some topics within the legislation. But I also listened with interest when you said that you have never attacked personally any member of this institution or this institution collectively. My colleague who just rejoined me from Massachusetts pro-

vided some articles, one from the Boston Globe. Let me quote it. In the article dated Thursday, June 1, the headline, "Park Service Chief In Lowell, Says Cuts Imperil Smaller Sites." That is the headline. Quoting you now, Director Kennedy, "they don't like eastern and urban. They like big and green and big sky, Kennedy said of Committee Chairman Don Young, Republican of Alaska, and other western legislators." He added, "These folks don't like cities much. They don't like people who live in cities much."

Director Kennedy, could you please elaborate on how that is not an attack on Members of the Congress of the United States?

Mr. KENNEDY. Yes, that is a difference of view. I stand by every word. I believe it. I believe it.

Mr. HAYWORTH. OK, so you believe that we don't like cities?

Mr. KENNEDY. I didn't speak of you, sir.

Mr. HAYWORTH. And other western legislators.

Mr. KENNEDY. Yes, OK. If you want to associate yourself with an anti-city view, that is OK with me.

Mr. HAYWORTH. No, I think the good people can disagree, Director Kennedy. I am certainly not naive enough to believe that we ever would divorce politics from policy. I guess the problem that I am having, and of course you can't begin to answer for the Secretary of the Interior, though you will report to him, I trust.

Mr. KENNEDY. I will indeed, sir.

Mr. HAYWORTH. Is this almost reflexive action to deliberately, through disinformation, inaccurately portray the aims of this committee to attribute to those of us on this committee in the majority the most base and vile of objectives in what I believe is ultimately political grandstanding? There is no place in polite political discourse for people who may be of two minds to ever attribute to adversaries something as heinous as the attack on Pearl Harbor. Would you agree with me on that assessment?

Mr. KENNEDY. With your last paragraph, I absolutely agree. I don't think that it is a good thing for differences of view on policy to degenerate into name calling, ever. We get mad, we all do that. Mr. Vento suggested earlier we sometimes get mad and we say dumb things. We all do that, but not in a way that corrupts the process of talking about legislation or policy. If you do it, you can apologize. I have, but I can't think of any time in which I have thought it appropriate to hang a moniker on a Member of Congress that suggests that their motivation was base. I don't think that is necessarily useful.

Mr. HAYWORTH. I thank you, Director Kennedy, and I just trust that your superiors both in the Department of Interior and ultimately the other end of Pennsylvania Avenue will have the same opinion. Thank you.

Mr. HANSEN. Thank the gentleman from Arizona. The gentleman from New York, Mr. Hinchey, is recognized for five minutes.

Mr. HINCHEY. Thank you very much, Mr. Chairman. I would just observe that rhetorical flourishes are not uncommon in pursuit of political objectives and, you know, they happen and we all exercise them in one way or another. And I don't attach too much importance to it. The important thing is the pursuit of goals and objectives. I think it is true that there are differences with regard to the goals and objectives of the various members of this committee, and

those goals and objectives are distinguished most clearly and succinctly by an examination of who sits on which side of the aisle. It is a little bit more ambiguous than that, but that, I think, is its most clear manifestation.

So with regard to H.R. 260, I think that it is possible to misinterpret this bill. It is possible to misinterpret the printed word, but nevertheless there are provisions in it which I find very worrisome. Even though I have the greatest respect for the Chairman of this committee, as I have for his immediate predecessor, there may be some of us who, in examining various pieces of legislation, are going to come to disagreements with regard to its objectives. I certainly disagree with some of what I perceive to be the objectives of this particular piece of legislation. So I think also that whatever the intention is here, it is also possible to destroy institutions and great works in more than one way. You can do it by a frontal assault. You can also destroy a great building by the removal of one brick and have it crumble over time.

So there are those of us who have a great respect for the National Park System. There are those of us who have a great respect for the Nation's heritage. There are those of us who believe that the lessons of our history are in some measure most clearly and most significantly expressed in our national historic monuments and other aspects of the National Parks System. We believe that so strongly that we are prepared to defend them against what we might perceive as any kind of an attack, whether it is a frontal attack or a chipping away. In any case, there are differences between us and I think those differences with regard to environmental issues were clearly expressed on a number of occasions during this particular Congress, most recently in the debate on a bill last night on the floor with regard to such things as ANWR, with regard to such things as mining rights and mining privileges and the sale of mining land, such things as grazing rights and the costs of those grazing rights, things of that nature. Those are issues that divide us and probably will continue to divide us and they will be the subject of political discourse. In the context of that political discourse some people may get more excited on a given moment than others and they may use language that is discomforting to other members.

Mr. HAYWORTH. Would the gentleman yield?

Mr. HINCHEY. Yes, sure.

Mr. HAYWORTH. So in essence you would excuse the language of the Secretary comparing those of us with a different point of view to those who attacked Pearl Harbor?

Mr. HINCHEY. You may infer from my words, sir, anything you like.

Mr. HAYWORTH. I am just simply asking.

Mr. HINCHEY. But don't put words in my mouth.

Mr. HAYWORTH. I would not. I am just simply asking if in terms of this rhetorical defense——

Mr. HINCHEY. You can infer anything you like. I am telling you what I believe is at issue here. And you can interpret that in any way you choose.

Mr. RICHARDSON. Will the gentleman yield to me on another subject if he has concluded his statement? Have you?

Mr. HINCHEY. Sure.

Mr. RICHARDSON. I think this whole lobbying issue, specifically with regards to comments by the members that have been made, is that we really have a dilemma here because at one instance it really deals with how we are going to micromanage and how we deal with it and the confidence in the Federal agencies. For instance, we write law. How specific do we become? And we need the type of input from a lot of professionals in the field as to the consequences of the legislation is that we write. We need it all the way down, especially with regard to parks, down to that specific park. So the issue when you have budget limitations coming down on Rocky Mountain National Park, when you have limitations coming down in Saguaro in terms of what the budget does or review processes and studies, I think one of the things we don't want to do and I think one of the problems with the Park Service is that it has been pretty much a Democratic organization in terms of those professionals being able to speak up and stand up to protect those particular areas.

Mr. HAYWORTH. Democrat——

Mr. RICHARDSON. The gentleman is yielding to me, and I would be happy to talk with you later, J.D., but the issue is the lobbying issue in terms of where education lobbying begins. There is a real problem that we have in terms of demanding information. And so this isn't just a matter of saying you can't get involved in legislation. In fact, we insist that they get involved, on the one hand; then interpret their involvement as having views and having a position one way or the other, which we insist they have a position.

In fact, one of the problems we have had with park designation here is that the Administrations in the past and this Administration don't always come up and give us precise support or opposition to a bill.

Mr. HANSEN. The time of the gentleman has expired.

Mr. RICHARDSON. It is Mr. Hinchey's time.

Mr. HANSEN. Well, I asked Mr. Hinchey if he needed time and he said no. Let me just point out if you go to the Attorney General's opinion, you get a distinction here, and the distinction is, surely we want information from the Park Service, no question, we should have, and from every other executive branch. It is when it becomes a political issue and when they start taking a political shot at it is where we draw the distinction.

That is why if the gentleman from Minnesota had been here earlier we went into these things which we felt really not Mr. Kennedy, but more his superiors, and that was my line of questioning before that. And that is where we are talking—and that is why the distinction was made.

Mr. RICHARDSON. Well, if the Chairman would yield, a lot of the facts, a lot of information they provide are going to have political ramifications. Any opinion they have with regards to park policy, the expansion of the park, the demise of the park, how you open it over for a season, whether it is closed in the shoulders, all of these have political ramifications.

Mr. HANSEN. I agree with that, but reclaiming my time, let me say that it goes beyond that when they start taking shots and saying the Republicans or the Democrats are trying to do something for political benefit. That is when they are that blatant we get into

that. Look at the armed services. I mean, those guys were sitting over there in the past with a huge budget, but if you really want to see somebody nervous, watch these generals and admirals come over. And I have sat on that committee for 15 years and you have to almost take them somewhere and they sweep the room to make sure there are no bugs before they will tell you if they want the B–2 Bomber or not, because they are so afraid of what is going to happen when they get before the committee.

We have two votes coming up and I wanted to recognize Mr. Torkildsen who has not had an opportunity to speak. Peter, if you want to go right now we can take three or four minutes for your conversation and then we will go for votes and then we will come back. And I apologize to all you folks. We will hurry right back and get on with this thing. And I think we will be through with you then, Mr. Kennedy.

Mr. KENNEDY. Yes, sir.

Mr. HANSEN. Mr. Torkildsen.

Mr. TORKILDSEN. Thank you, Mr. Chairman. And I thank the Director for testifying today. I just want to go back and have a few more questions about a subject that has been talked about several times, and that is the existence or non-existence of a list of parks. Now could you say again you don't know of any such list or could you explain exactly what I believe you just said a few minutes ago?

Mr. KENNEDY. Sure. I know of no list included in any legislation before this house that lists a set of named parks for closing, or I think the other portion of it was selling off or whatever. I know of no such list.

Mr. TORKILDSEN. OK, do you know of any such list from the Interior Department?

Mr. KENNEDY. No, sir, I don't. I understand, though, I am under oath here, and I just understand, because I don't know that a list was prepared possibly by NPCA or somebody else.

Mr. TORKILDSEN. OK.

Mr. KENNEDY. But that is not anything I generated, and if it exists I am not responsible for it.

Mr. TORKILDSEN. I will provide you with a copy of this article, but this is from the Boston Globe, and granted, newspapers certainly make mistakes, the Boston Globe included.

[The article submitted by Mr. Torkildsen was placed in the hearing record files of the Subcommittee.]

Mr. TORKILDSEN. This is the article, "Declaring America's heritage under unprecedented assault, the Chief of the National Park Service released a list yesterday of 200 small attractions including the birthplace of the late John F. Kennedy closed under budget cuts by Congress."

Mr. KENNEDY. No. No, excuse me, sir. That is a whole other point.

Mr. VENTO. Budget cuts?

Mr. TORKILDSEN. That is why I asked about any other list.

Mr. KENNEDY. Sure, good.

Mr. TORKILDSEN. Are you aware of such a list now?

Mr. KENNEDY. This is a wholly different subject. Now let me get this straight. This is a budgetary matter, not an H.R. 260 matter.

Mr. TORKILDSEN. That is why I asked about the list from the Department of the Interior.

Mr. KENNEDY. I really want to make this clear. I have never attributed at any time a list of parks for closure to H.R. 260, ever, ever.

Mr. TORKILDSEN. Understood. My question was *any* list of parks.

Mr. KENNEDY The second question is, is there a list of parks that would—if there had been a level of budget cuts that was earlier discussed and which are not now going to happen, thanks to a lot of you, if those budget cuts had occurred, you either could have achieved that amount of money by closing a number of big parks at the top or a lot of little ones at the bottom. And if you wanted to aggregate the total amount of money you would have to realize to get those cuts, then there was a total, not a list of but a simple totaling of the budgets of 200 parks.

Mr. TORKILDSEN. So you don't know of such a list or you do know of such a list?

Mr. KENNEDY. I know the listing of the total budgets for all the parks and the bottom 200 of them is certainly a matter of public record. But that had nothing to do with H.R. 260 and nothing to do with the argumentation about H.R. 260.

Mr. TORKILDSEN. Understood.

Mr. KENNEDY. OK.

Mr. TORKILDSEN. H.R. 260 is not the point of my discussion right now.

Mr. KENNEDY. Sure.

Mr. TORKILDSEN. My question is did you know about this list, and I am still trying to get a straight answer.

Mr. KENNEDY. Your question is, is there and was there a list of the budgets of the parks and was there a totaling that you would have to take 200 from the bottom to reach that level of budget cuts, the answer is yes.

Mr. TORKILDSEN. So you did release a list of parks that could be closed under a ten-percent budget cut?

Mr. KENNEDY. No.

Mr. TORKILDSEN. OK, the Boston Globe is in error on that point?

Mr. KENNEDY. The Boston Globe is a little bit confused about this. There is a difference here. Once again, I do want to get right about this. I want you to know exactly what I am trying to state. If you take the budgets of each of the parks and you move your hand up from the bottom, you get to about 200 in order to have that number that——

Mr. HANSEN. I don't mean to cut anybody off, but we have only got five minutes to vote, and maybe we better run.

Mr. KENNEDY. Sure, sorry about that.

Mr. HANSEN. Mr. Kennedy, could you stay for one more question? We would appreciate it if you would. And again, the rest of the folks who are here as witnesses, we will be right to you. We want to resolve these things. As you can all see, this has been the headliner today, and we will be right back. So we stand at recess.

[Recess]

Mr. HANSEN. Mr. Torkildsen wasn't finished with his comments. Mrs. Chenoweth had an additional question that she wanted to ask the Director of the National Parks, Mr. Kennedy.

Mr. KENNEDY. Mr. Hansen, I would like, if I may, to restate with greater precision my response to Mr. Torkildsen. I am not satisfied with the clarity and I want to do that.

Mr. HANSEN. Go ahead.

Mr. KENNEDY. Thank you.

Mr. HANSEN. Go ahead.

Mr. KENNEDY. Oh, not now. I will submit it for the record.

Mr. HANSEN. Would you do that?

Mr. KENNEDY. Sure.

[The information was not received at time of printing.]

Mr. HANSEN. Unless these other members walk in, let me ask staff, do we see Mr. Torkildsen and Mrs. Chenoweth coming down the line anywhere? Apparently not.

Mr. Hefley from Colorado had a very interesting conversation with Mr. Paul Pritchard of the National Park Conservation Association, and I would like to ask Mr. Hefley for the sake of the record what that statement was about.

Mr. HEFLEY. Thank you, Mr. Chairman. Early on in the development of H.R. 260, and we have talked about this, Roger, as well, Mr. Pritchard was in my office and made the statement that H.R. 260 was the grayest haze of park legislation since the generic bill that created the Park Service. He also said that he had, I believe at that time, four or five little problems with it. We went over those four or five little problems. There was nothing there that was a real gangbreaker at all. All could be dealt with and worked out. We tried to do that over a period of months and became quite surprised when we became the poster boy for all that is evil with the attack on the parks.

Did he ever make that statement to you, that he thought it was basically a good piece of legislation?

Mr. KENNEDY. I don't think he did, Mr. Hefley, but we don't consult a whole lot. We are not on very frequent communication. I see Mr. Pritchard, I suppose, every 90 days or so, or something like that, and we don't consult on policy much. I will leave it at that.

Mr. HEFLEY. Well, I think it shows that the request that the Chairman made of you that you and I and Mr. Vento sit down and come up with something we can all be proud of, I think it shows that there is room for that to happen, because even Mr. Pritchard, in spite of what I think has been a very disingenuous approach by his organization on this thing, but even he was saying it is a good piece of legislation.

Mr. HANSEN. I was given to understand that that organization made a lot of money on this particular issue, as many people do. I remember when I was first here in 1981 there was a group saying, "Save the Chesapeake Bay from the ravages of Jim Watt." Mr. Watt came into my office, I showed it to him, he thought it was hilarious and he pointed out the amount of money they were putting in Chesapeake Bay. Strangely enough, I sent these people some money at his request and about six months later received a letter saying due to your generous contribution we were able to stop Mr. Watt from messing up Chesapeake Bay. It was all just kind of a tempest in a teapot and reminds me an awful lot about what has happened around America on Social Security that some people have made millions of things that have never happened.

That is just a hang-up I have got that is not Republican or Democrat. It is just I think people surely take advantage of what is happening.

Mr. Torkildsen had the floor.

Mr. TORKILDSEN. Thank you, Mr. Chairman. And again, Director Kennedy, thank you for testifying. I would like to go back to sort out where we were talking when the vote occurred in the House. If I understand this correctly now, you did not release any list of parks to be closed totally separate from legislation? You did not release a list of parks to be closed, but you did release a list of parks that were less expensive to run than other parks?

Mr. KENNEDY. Here is exactly what I did do. I don't know whether I did it, but it was done. When there was talk of the necessity to raise $108 million by cutting that much out of the National Park budget, a number of lists were produced that said here is what you would have to do if you took the least visited parks and started cutting them off the bottom or the most visited parks and cut them off the top or those that had the lowest budgets and you aggregated them up. That is how much each of them costs per year. So there were probably three or four sets of lists produced.

Mr. TORKILDSEN. And how many of those did you release?

Mr. KENNEDY. I don't remember releasing any myself, but it may very well be that my office put out one list, two lists, three lists or four lists as to where you would get money in one or another of the ways of achieving those cuts.

Mr. TORKILDSEN. So even though one major newspaper said that you released a list of 200 small attractions, you don't remember releasing that?

Mr. KENNEDY. I have no recollection of handing a newspaper person—I guess I could be a little stiffer than that. I am pretty sure I never gave a newspaper person ever a list of parks that you or anybody else said should be closed. I don't think I ever did that.

Mr. TORKILDSEN. I think it is important to have this on the record.

Mr. KENNEDY. Yes, sir.

Mr. TORKILDSEN. Because what has been read in Massachusetts in the newspaper and what a lot of residents in Massachusetts accept as a given, right now you are contradicting, and so I think it is very important that the record clearly reflect that if indeed you are saying what was reported in not only the Globe but other newspapers as well, if it didn't happen, I think it is very important that the record reflect that. If it did happen, I think it is important that that be brought out as well.

Mr. KENNEDY. Sure.

Mr. TORKILDSEN. I just want to know what actually occurred up in Lowell when you were visiting in Massachusetts this summer.

Mr. KENNEDY. We were discussing the budget and the consequences—the budget, once again, not H.R. 260, the budget, of how you could find 108 million bucks if you had to find it. In order to do that, there were lists of the budgets of parks and I don't know that it was 200. Maybe I can be helped on this. Was it 158 from the bottom? 190? 158 if you went by visitation, right? Is that right? OK, there were any number of ways that you could squeeze out $108 million out of the parks budget, closing the least visited, clos-

ing the smallest budgets or taking the most visited and taking the highest budgets. You could get there any number of ways, but you have to get it somewhere. The question is you have got to find the money. So here is how you would find the money. I did not at any time give any newspaper reporter a list of parks that you or any member of this committee had said needed to be closed or should be, ever.

Mr. TORKILDSEN. OK, so you don't remember giving any lists at all? Now with these possible lists that you just mentioned that there could have been several lists and theoretical ways on how to achieve $108 million savings?

Mr. KENNEDY. Sure.

Mr. TORKILDSEN. At any time did you or the Interior Department devise any type of list on how to comply with these spending cuts without closing parks or sites? Was that ever considered?

Mr. KENNEDY. Sure.

Mr. TORKILDSEN. And did anyone from the Interior Department ever release that list to anyone at all in the media?

Mr. KENNEDY. That I don't know. I do know this, that there were lots of scenarios that were developed as to how you would get the money. And I don't know who may have given those scenarios to whom. Don't know that. Oh, OK, I am told that the ten percent cut had to come out of operations. We are now getting back to last August sometime and who was saying what to whom at what time.

Mr. TORKILDSEN. OK, I may have to go back into this in a second round of questioning.

I want to touch upon one other area, as well. In your recent C-span interview, I did not see all of it, but I understand that you did very well and I want to congratulate you, a wide-ranging interview, however according to a transcript, several times you referred to "enemies of the park system". Could you tell us does the Park Service have an enemies list?

Mr. KENNEDY. No, sir.

Mr. TORKILDSEN. Who do you think are the enemies of the Park System?

Mr. KENNEDY. I am a survivor of the enemies list period. I know a little about that process. No, sir, never at any time have I or anybody else compiled an enemies list. I don't believe in that mode of government.

Mr. TORKILDSEN. OK, then who are the enemies of the Park System that you referred to?

Mr. KENNEDY. There are sets of persons that are enemies of the Park Service and System. There are people who would like to have parts of it spun off to developers to sell off. I think that is bad. I am opposed to that.

Mr. TORKILDSEN. Could you tell us who any of these enemies are?

Mr. KENNEDY. You want me to give you names of persons, sir?

Mr. TORKILDSEN. Well, if you were referring to individual persons, yes. If you were referring to groups, the names of the groups would be sufficient. But when you say there are these enemies of the Park System, obviously I think we are all concerned that if there are enemies of the Park System out there, most Americans would like to know who they are.

Mr. KENNEDY. Well, from the very beginnings of the National Park System there have been people who didn't want there to be national parks. There have been people who wanted and coveted those parks from the time that the calvary had to send people out of Yellowstone that were in there doing things that were not conducive to it as a national park. There have been enemies of national parks—I can think of several sets of people that would pollute the water and the air next to these parks. Those are enemies of the parks.

Mr. TORKILDSEN. Well, could you tell us any of these polluters, then, if those were the people you were referring to?

Mr. KENNEDY. Sure. Sure.

Mr. TORKILDSEN. Please do.

Mr. KENNEDY. The notion that the Park System has no enemies is a surprise to me.

Mr. TORKILDSEN. I don't know anyone who has advocated that. I am concerned that you have identified that there are enemies there, and I would just like to know whom you were referring to.

Mr. KENNEDY. As a historian, for 120 years there have been enemies to the National Park System, and I believe that they are still there. I believe that there are people who do not believe in common ground, common property parks, national, State or local. There are people who don't like public libraries either, and there are enemies to the National Public Library System, too, sir. Those are people I oppose.

Mr. TORKILDSEN. We will deal with libraries in another hearing. Can you tell us any of these people that you identified as enemies?

Mr. KENNEDY. I will not today or any other time personalize my policy views.

Mr. TORKILDSEN. OK, well, were you referring to Members of Congress when you were identifying enemies which you don't choose to identify today?

Mr. KENNEDY. It isn't a matter of choosing, sir. You have asked me to identify, as I understand you, Members of Congress who are enemies of the National Parks. Is that what you want me to do?

Mr. TORKILDSEN. No, I am asking who were you referring to when you identified enemies of the Park System. I have asked, like four or five times now and you have not identified, and so I ask, were you referring to Members of Congress?

Mr. KENNEDY. I am not going to give you the names of persons with whom I disagree. I am going always to try to address public policy.

Mr. TORKILDSEN. There is an enormous difference between disagreeing with somebody and labeling them as an enemy. I disagree with many colleagues here, sometimes colleagues in my own party. I don't consider them enemies because I disagree with them. That is part of what our system is made of.

Mr. KENNEDY. I wholly concur. I don't regard them as personal enemies either, but I do regard people who are antagonistic to places or values or institutions that I revere, I regard them as enemies to those institutions.

Mr. TORKILDSEN. While you regard them as enemies, you choose not to identify any of them at all in this hearing?

Mr. KENNEDY. I choose never to personalize my policy differences with anybody.

Mr. HANSEN. The time of the gentleman has expired. We have Mr. Max Peterson, former chief of the Forest Service and Ms. Wilma Lewis here who we want to get to as soon as we can. So could we quickly wind this up? And I will turn to Mr. Kildee.

Mr. KILDEE. Thank you, Mr. Chairman. With regard to enemies of the Park Service, I know I respect the question, I respect the answer. I know there are some. Anyone who would dump their refuge in my front yard I would consider that person an enemy. Anyone who would dump refuge in a National Park Service I would consider enemies. There are enemies out there. The only thing I have learned through my church is we are told to love our enemies, we try to convert them, but we do love them anyway.

Do you believe, Director Kennedy, that the last two National Park Service directors, Mr. Mott and Mr. Ridenour, would have been eligible for appointment under the provisions of H.R. 2465?

Mr. KENNEDY. No, I don't think so, sir. They hadn't managed Federal parks.

Mr. KILDEE. That is how I read H.R. 2465—the Director shall have substantial experience and demonstrate a competence in Federal park management, so they would not have qualified?

Mr. KENNEDY. No, sir, I don't think so.

Mr. KILDEE. Other than the one appointment made by President Nixon, haven't all the National Park Service Directors, including yourself, however, been professionals in the conservation field?

Mr. KENNEDY. Yes, I think so. We have all of us, I think, been professional managers doing our best to serve our country.

Mr. KILDEE. So this bill would require that there be some experience in Federal park management, that would preclude reaching outside, then, to bring someone in who might bring a new——

Mr. KENNEDY. Yes, I can think of some pretty good State park directors out there that would be pretty good at this job, and some days I wish they had it.

Mr. KILDEE. And I have discovered in my 19 years in the Congress that all wisdom doesn't reside in the Federal Government. There is some real great wisdom out there in the States and the counties. And to my mind, this is almost, with all due respect to the introducer, that it is almost assuming that unless you are Federal you are not quite as competent. And that is contrary to what your basic philosophy is. Just a point of fraternal correction, I would say, there.

Mr. HANSEN. I appreciate the comment from the gentleman from Michigan.

Mr. KILDEE. I yield back the balance of my time.

Mr. HANSEN. Always well stated. Now when you fly to Michigan next week, I hope the guy has flown more than a Super Cub. Thank you.

We will recognize the gentlelady from Idaho briefly as she had one or two questions, and we will then conclude with Mr. Kennedy if everyone agrees. Thank you for the agreement of the committee.

Mrs. CHENOWETH. Thank you, Mr. Chairman. I appreciate the indulgence of the Chair. I have before me a proposal to refurnish the corridor and waiting areas serving the Office of the Director of

the National Park Service. And you talk about having to shut down 200-some odd parks because there isn't the money to operate them, and yet you proposed to spend $650 for four cushions.

[The submission by Mrs. Chenoweth can be found at the end of the hearing.]

Mr. KENNEDY. $650?

Mrs. CHENOWETH. Yes.

Mr. KENNEDY. For four cushions?

Mrs. CHENOWETH. For four cushions.

Mr. KENNEDY. You are telling me something I didn't know about.

Mrs. CHENOWETH. You should know about it. You are the boss.

Mr. KENNEDY. Well, I am afraid I am not into the cushion business much lately, but I don't know about this proposal. $650 for four cushions, how big are the cushions?

Mrs. CHENOWETH. It is your report, sir.

Mr. KENNEDY. Beats me, ma'am. I am unacquainted with this.

Mrs. CHENOWETH. $6,000 for ten black and white prints.

Mr. KENNEDY. $6,000. Those are pretty good prints. I am unacquainted with this, too.

Mrs. CHENOWETH. $6,000. A total of $19,630 to refurnish your office, Mr. Director.

Mr. KENNEDY. Mrs. Chenoweth, I have not ordered ever any cushions, period. Excuse me, I have not ordered personally ever any prints. I have no idea what you are holding in your hand, ma'am, but I have personally no interest in prints or cushions.

Mrs. CHENOWETH. It is prepared by the Harpers Ferry Center, Division of Exhibits and Division of Historic Furnishings. It is a proposal to refurnish the corridor and waiting areas serving the Office of the Director. And this is under your letterhead, National Park Service.

Mr. KENNEDY. It is certainly not of the National Park Service. Ma'am, I have never made, I have never made any such proposal. I know nothing about it. In fact, so far as I know, it doesn't exist. If somebody wants to propose anything, that suits me fine but I don't want any prints and I don't want any cushions.

Mr. VENTO. I ask for regular order. We have drifted far and wide with regards to a variety of issues.

Mrs. CHENOWETH. Mr. Chairman, reclaiming my time, please.

Mr. VENTO. I would ask the regular order with regards to this matter, because this is making a mockery of the committee process. We have got three or four bills here.

Mrs. CHENOWETH. Mr. Chairman, I would appreciate the courtesy that I have extended to the gentleman from Wisconsin.

Mr. HANSEN. The Chair will rule that the lady can finish her two questions and we will move on.

Mrs. CHENOWETH. Thank you. This is relevant because the gentleman, the Director, testified that the closing of parks was a budgetary issue. And I simply was bringing up the fact that there are some places that we could cut in the Administration.

My second question is this. Congress is serious about ending Federal funding to organizations, as I referred to earlier, that devote much of their resources to litigation and lobbying. Does the National Park Service award grants, contracts or other transfer of

funds to environmental groups that engage in litigation and lobbying?

Mr. KENNEDY. I am unacquainted with any such activities. Would you name the organizations you have reference to?

Mrs. CHENOWETH. For the record, could you please provide the subcommittee with a detailed accounting of all the grants, contracts and other awards from the National Park Service to the following groups since 1993, the National Parks and Conservation Association, the Wilderness Society, the National Audubon Society, the National Wildlife Federation, the Nature Conservancy, American Rivers Inc. and the Appalachian Trail Club.

Mr. HANSEN. If the gentlelady would yield to me, in deference to the Director, would you be willing to supply the answer to that question in written form to this committee, to Mrs. Chenoweth, to myself, to Mr. Vento and others who are interested in speedy response—a week or two? Would you be happy to respond to her question?

Mr. KENNEDY. Yes.

Mr. HANSEN. We would like to have that in writing.

Mr. KENNEDY. Yes.

Mr. HANSEN. We would appreciate if you do. Would that be all right with the gentlelady from Idaho?

Mrs. CHENOWETH. Yes, Mr. Chairman, and I would like to submit this document for the record.

Mr. HANSEN. It will be part of the record without objection.

Mr. HANSEN. Thank you, Mr. Kennedy. Above all, I submit the idea that we are all going to work in harmony and come up with the thing that is necessary to help you out as Director. And we will look forward to doing that with myself, Mr. Richardson and interested members like Mr. Vento and Mr. Hefley. Is that correct?

Mr. KENNEDY. Yes, sir.

Mr. HANSEN. Thank you very much for your testimony. I appreciate your courtesy.

Mr. KENNEDY. Thank you, sir.

Mr. HANSEN. The next panel is Ms. Wilma Lewis, Inspector General of the Department of Interior and Mr. Max Peterson, Executive Vice President, International Association of Fish and Wildlife Agencies. Mr. Peterson was chief of the Forest Service for many years and when I first came on board here was part of it. Now, Mr. Peterson, we realize that we have kept you both waiting awhile and I understand you have another obligation. I appreciate your patience. We will turn the time to you, sir.

STATEMENT OF MAX PETERSON, EXECUTIVE VICE PRESIDENT, INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES

Mr. PETERSON. Thank you, Mr. Chairman. In fact, my wife is in the hospital this morning possibly undergoing surgery later today.

Mr. HANSEN. I more so, then, appreciate your patience and understanding.

Mr. PETERSON. Mr. Chairman, if you would accept my entire statement for the record, I will try to brief it in the interest of time.

Mr. HANSEN. Without objection, so ordered. And the same for Ms. Lewis.

[The prepared statement of Mr. Peterson can be found at the end of the hearing.]

Mr. PETERSON. As you pointed out, I had the privilege of serving 37–1/2 years with the Forest Service, 7–1/2 years as Chief, serving under three different presidents and, I think, four different Secretaries of Agriculture during the time I was Chief. Looking at this committee this morning, I remember the privilege I had of testifying before previous chairmen, Mr. Siberling and Mr. Weaver and Mr. Vento. Having been through the question of who gets sworn in at times, I would agree with Mr. Vento. I always figured when you appeared before this committee you were expected to be truthful whether you were sworn in or not. So I will do that today.

In 1990, as you know, I testified before this committee at that time chaired by Congressman Vento. At that time I made some observations about natural resource agencies and the question of agency professionalism. Just so you recognize that I am being consistent across Administrations and there are no political motives here. I have included that testimony today as an attachment to my statement.

I am basically in favor of the legislation that you have introduced, Mr. Chairman. I have known all of the Directors of the National Park Service going back to Conrad Worth, and I have known the Chiefs of the Forest Service going back to Chief Watts—I think that on balance, although you may be able to get somebody outside of one of those agencies with no experience that has superior qualifications and may be able to do a real good job, that is a rarity. Particularly as I note going all the way back to President Eisenhower we have had only one president since that who served two full terms. This means that we have turned over the Federal Executive Branch leadership in less than an eight-year cycle since the 1950's. So what we have seen, then, is a whole array of agency heads who come and go and serve very short periods of time. Although you might get somebody who has had experience in just in one location who would do a good job, and I don't think we would want to rule that out, I think that would be a rare exception. There is a large number of units of the National Park System and the National Forest System and a great variety of problems and millions of people that are being served, as well as a large number of people who work in the agency. I think it is important that the agency head not spend a great part of their period of time on the job being trained, just finding out where the real estate is and finding out what some of the problems are.

One of the things that you haven't mentioned in this legislation which has been of particular interest to me for about the last 15 years is the tendency to add assistant secretaries, under secretaries, deputy assistant secretaries and staff people at the Department level so that the head of the agency no longer has real live access to the Secretary. Going back to the Eisenhower Administration, for example, it has only been since then that there has been a line of assistant secretaries. I believe the first Assistant Secretary for Fish, Wildlife and Parks was Nat Reed in the 1970's. Prior to that, the Director of the National Park Service worked directly for the Secretary. Now the Director of the National Park Service or the Chief of the Forest Service has a whole array of people that they

have to work through to even talk to the Secretary. And I don't believe that is either an efficient way to do things or I don't believe it serves the American public well.

It seems to me that what it does, it encourages moving decisions upward and it includes moving decisions up to people who are, frankly, quite inexperienced and who may be there primarily because some of their relatives gave a lot of money to a campaign. The general timeframe that they are there, Mr. Chairman, as you know, is about 18 months. Assistant secretaries tend to serve about 18 months and the deputy assistant secretaries may even serve a shorter period of time than that. That is, unfortunately, where the basic decisions are being made in agencies today on personnel, on budgets and on all of the working things of an agency. Decisions are really being made in many cases in the under secretary's office, not by the agency head or in the field. If you want to track the growth, you can track that. The Secretary did have assistant secretaries before that, but they were not line assistant secretaries. They served certain functions like budget or legislation but they did not manage a particular agency.

Incidentally, I notice in the reinvention and the reengineering effort going on right now there is nothing happening at that level. There is no thinning out of that level. You remember the Volker report suggested that adding the big layer of political and expensive appointees had not served the President well because it provided a great layer of expensive insulation from what is going on. So I would recommend that in addition to looking at the qualifications of the heads of the natural resources agency, that you look at this whole business of proliferation of people at the department level, which, I would say, is not being touched in the current reinvention, reengineering effort to my knowledge. I think the last time I counted the number of assistant secretaries and deputy assistant secretaries in agencies like Energy or HEW it is an astounding number of people.

There is another thing that I think happens when you have this large layer of political appointees, is that their modus operandi is to seek resolution in Congress or the political side of things rather than saying hey, my job out there is to manage parks or forests to serve people and make them accessible to all of the people and to use my budget as wisely as I can. The Director can't make that decision now. The Director ends up recommending a budget, but he may never get to make recommendations directly to the Secretary.

Let me finally say that I have a couple of other thoughts that you might want to consider. I think maybe a seven-year term for agency heads might be a better idea than five, just to give a little more time. Maybe with provisions for reappointment for an additional three years or something like that. I thought about just one term and I thought, well, if somebody is really doing a splendid job after, say, five or seven years you wouldn't want the law to just say you have to get rid of them. Maybe with one additional appointment up to a total of seven or ten years, and that is not an arbitrary number. The Forest Service, for example, had ten chiefs in the first 75 years, 7–1/2 years average. I served 7–1/2 years myself. I think that is long enough. I thought I had been there long enough when I decided to move onto something else. Again, I think the

focus of the professional agency head ought to be to serve all the people and he or she ought to see Congress as the Board of Directors for public lands, which is provided by our Constitution. The Constitution gives the Congress the right to make all needful laws involving the public lands. I took that to mean that Members of Congress on both sides of the aisle here would recognize that I never really thought whether a Member of Congress was a Democrat or Republican when I came up to talk to them. I tried to be concerned about what their interests were. And I believe that is what you would expect from a professional agency head.

Mr. Chairman, that completes my sort of rambling summary. I hope it is useful to you.

Mr. HANSEN. Well, thank you, Mr. Peterson, excellent comments. I think your points are well taken and very sincere and very pragmatic. The committee realizes Mr. Peterson's wife is going in for surgery. We don't want to hold him here. Anyone have any questions for Mr. Peterson? Now we don't want to hold you, but thank you. Your point about seven years has been kind of a point we have wondered about, too.

Mr. VENTO. Not only that, but I think his testimony really speaks to the one bill, not to the other fee bill that Ms. Lewis, the Inspector General, is going to comment on. So I think the only question, obviously we have gone through this limit in terms of Federal versus State or other professional experience for this role as Park Director. Obviously, Mr. Peterson, I don't know what you think. Former Chief Peterson, do you think there is a need to have only Federal experience in this particular land management role as a limitation?

Mr. PETERSON. I think it would be an exceptional case where you would find somebody that has no Federal land management experience who could do a top job, but I am not sure I would want to put it in the statute that they had to have that because you might find a case——

Mr. VENTO. I think in fact they misspoke. I think one, Bill Mott, actually had been a Park Service employee at one time.

Mr. PETERSON. Yes, Bill Mott, in fact, worked for the National Park Service early in his career, so I think that was not a correct statement. I think he would have been qualified under this legislation, but what you might want to do is to put something like preferably in more than one State and the national level or something so that there would be some breadth of experience. I would feel somewhat different if, let us say, somebody had been a State park director in the East and then was a director or something in the West, so they had some breadth of experience. I think we are talking more about breadth of experience.

Mr. VENTO. Well, I know you want to go on and others may have questions. One of the other issues, of course is Senate confirmation, which I think I generally support, but I don't think we ought to kid ourselves that that can in fact become subject to political conditions.

Mr. PETERSON. Yes.

Mr. VENTO. In fact, it could politicize the position even more than otherwise would be the case. I mean, just putting confirmation by the Senate in doesn't necessarily—you know, because in the

Senate the committee that might consider it may not really be broadly based. It may only have specific interests that they are concerned about. They may in fact veto someone who has an interest that varies on what they think or how they think a forest or a park would be managed in their own area.

Mr. PETERSON. I thought as I looked at this legislation that maybe we ought to have a commission of some kind that recommends a director, maybe a bipartisan commission or something. I don't know, but that might be seen as a bar on the appointment powers of the President. I personally think that normally the Director should come from the career ranks of the agency. I think I have some bias there, obviously, but I think the best directors of the National Park Service have come from within the Park Service. And I think, generally speaking, that is going to be true. And maybe somewhere in the legislation and the report we should emphasize that there is an anticipation that there will be real, live consideration of career people within the organization and maybe even, as I say, some commission to provide advice.

I know in appointment of judges they give it to the bar to look at qualifications. I don't know, maybe there is some kind of commission we ought to consider. But I think the whole idea would be to get the best person you could to be the director or chief without relevance to their particular political connections or adherence to any special interests. So I think we are in agreement with the basic idea. I am not sure we know just exactly how]to do it.

Mr. VENTO. Well, I think most of us agree. You know, the Park Service the way it administers law ought to be above politics, it ought to be even-handed and democratic—democratic with a small "d", democratized. I think that is one of the issues here with land units where you have superintendents in the field as the chief managing a vast forest. You have to delegate a certain amount of responsibility.

Mr. PETERSON. Right.

Mr. VENTO. And all of the work, the science that we are talking about in terms of ecosystem management and landscape managements now tend to lead to the decentralization to a degree of that.

Mr. PETERSON. Right.

Mr. VENTO. To a degree of decisionmaking. And so trying to establish or recognize what our administrative needs are and how they match up with landscape management across the country is a difficult task.

Mr. PETERSON. I think, too, familiarity with the people of an organization and its problems out there is important, and difficult to get. Let us say that if I became Director of the National Park Service, I don't know the national parks nearly as well as a whole lot of people within the National Park Service, even though I have been to lots of them over time. I don't know the National Park Service people as well as Park Service people do. So I think knowing the problems out there, the areas they manage and knowing the people out there is of enormous value to somebody as Director of the National Park Service. As you point out, Congressman Vento, you simply have to delegate and knowing the people is important in doing that. Secretary Freedman once said he thought the esprit de corps within the Park Service and the Forest Service

at that time came much from the idea that any of them could end up being director or chief. So I think you look at the whole performance of the organization. I also share your thought that we have a double-edged sword here. If we establish a requirement that directors are presidential appointees with Senate confirmation, we may look back and find out that added to politicizing the jobs.

Mr. VENTO. I think it is the atmosphere of appointment. I agree. I think taking people from within is really the best way to do it, but you obviously want to have the option to have an exceptional person. Roger Kennedy is such, and obviously what they do then is they take the John Reynolds who becomes their deputy who knows the system inside out, supposedly, and then they can advise and guide them. But, you know, the issue is that very often this on-the-ground immediate knowledge in that role is essentially important for the effective management of the resource. I tend to give the benefit of the doubt to my colleague here in terms of Senate confirmation, but I think that probably they may not deserve the benefit of the doubt.

Mr. HANSEN. That may be. Let me just say this. We have a vote on passing H.R. 109, the Social Security Earnings, and then we have got three hours of debate on it. The lady from the Inspector General has been so patient. I am just embarrassed to hold you here. We have got a vote. We will be right back. Chief, let me again thank you for coming. Your depth of understanding of the Forest Service when you were there and others, it seems to me like it ran very, very well. We were all very pleased with it. In fact, that is really one of the reasons we are looking at the Park Service. My 15 years on this committee I have visited literally dozens of parks, and every park superintendent is very courteous and complimentary toward their director, but they all say it sure takes a long time to teach him a few things as things come along.

Mr. VENTO. It takes a long time to teach the Members of Congress.

Mr. HANSEN. I know. Do you think we should have a commission for it?

Mr. PETERSON. I don't think I would touch that. Thank you, Mr. Chairman, for your courtesy.

Mr. HANSEN. We all hope that your wife is doing well.

Mr. PETERSON. Thank you very much.

Mr. HANSEN. And my very best to her. And, Wilma Lewis, if you wouldn't mind, we will be right back.

Ms. LEWIS. Certainly.

Mr. HANSEN. Thank you. We will stand at recess.

[Recess]

Mr. HANSEN. We have some Members straggling over from the last vote. We surely appreciate your patience. It has been very kind of you to sit through all this today, but today there have been some strong feelings by members of the committee on a couple of issues which was kind of apparent, I am sure.

Ms. LEWIS. Yes, it was.

Mr. HANSEN. We will turn the time to you, and thank you for being with us.

STATEMENT OF WILMA A. LEWIS, INSPECTOR GENERAL, DEPARTMENT OF THE INTERIOR

Ms. LEWIS. Thank you, Mr. Chairman. I am very pleased to be here this afternoon to comment on that portion of the proposed amendment to Section 4 of the Land and Water Conservation Fund Act of 1965 that would authorize the National Park Service to collect and retain fees for non-recurring commercial or non-recreational uses of park system units.

On a personal note, this is the first opportunity that I have had since I was confirmed in April of this year as the Inspector General for the Department of the Interior to appear before any committee or subcommittee of the Congress. And it is a real pleasure for me to be here. It has been an exciting six months at the Office of Inspector General, and I am delighted to be able to offer my office's perspective on the important issues before this subcommittee.

As you know, earlier this year the subcommittee requested that the Office of Inspector General conduct an audit of the Park Service's implementation of its authority under the 1994 Appropriations Act to recover and retain fees for special use activities. We were asked to review a number of things: the implementation of the authority, the basis for establishing permit fee levels; how parks accounted for the revenues generated; and how the revenues were expended. Our audit of 13 parks, which accounted for about 53 percent of the approximately $3.8 million in revenues from special use fees for fiscal year 1994, revealed information that we believe is instructive in considering the legislation before this subcommittee.

To summarize our findings, the common thread that we found as we examined each of the areas was a lack of consistency among the individual park units. There were inconsistencies among the parks in the types of activities for which fees were collected; the bases for determining the amount of the fee; and the use of the fee revenues. Thus, for example, some parks charged for certain activities while other parks did not, with no discernible rationale for the distinction. Similarly, in establishing fee levels, the parks used varying methods such as the cost approach, comparability studies, appraisals and even the "collective judgment and experience" of personnel. They used these methods without sufficient guidance in areas such as which methods were proper; when to use each method; how to properly use each method; and the kind of documentation necessary to support fee computations.

As to the expenditure of fee revenues, some parks used the revenues to support only the particular special use which generated the fees; others used the revenues to support any special use activity; and others used the revenues to support general park operations in addition to the special use activity. Further, sometimes funds were carried over from one fiscal year to another and other times not.

In addition to these inconsistencies, we found that four of the 13 parks were deficient in their internal control procedures for collecting and accounting for revenues generated from special use permits. Such deficiencies included: not ensuring that all special use fees were paid; not ensuring that permit fees were deposited into the proper account; not reconciling receipts to the permits issued or to deposits; and not ensuring that receipts were deposited time-

ly. We concluded that these problems stemmed principally from a lack of clear and specific guidance by the Park Service in these areas.

The findings from our audit are instructive here because they raise concerns regarding some very basic issues that are central to any fee and cost recovery program: the issues of when to charge (in other words what activities are covered by the legislation); how much to charge (in other words what is the appropriate fee level); how to ensure that the correct amount is being collected and reported (in other words proper accounting); and finally, how and when revenues can be expended.

The proposed legislation is not invulnerable to some of the types of problems experienced by the Park Service in the context of special use fees. Key to the successful implementation of the legislation, we believe, is clear guidance from the Park Service, reliable accounting systems and effective program oversight.

As to guidance, we are aware from our audit of special use fees that the Park Service is in the process of revising its internal guidelines. In response to our audit report, the Park Service has indicated that the revised guidelines will address and correct in detail each of the problem areas identified in the recommendations. By providing detailed instructions on issues such as cost determiNation, necessary support for fee computations and internal controls necessary for accountability at the individual park unit level, the Park Service will have gone a long way in addressing some of the critical issues. Similar attention will have to be paid, however, to additional revisions necessitated by the proposed legislation, such as the identification of the types of activities covered by the legislation and the uses to which revenues may be put.

As to the development of reliable accounting systems, the Park Service has been making some progress in this area on the individual park unit level as well as on a broader Service-wide scale. It appears that as individual parks gain more experience with revenue collection, their accounting systems with respect to such collections have improved. Moreover, as I stated in an August 8, 1995, letter to you, Mr. Chairman, the Park Service has made considerable progress in addressing its more general financial accountability problems, although I must add that much work is left to be done. The Park Service's current commitment to the effort to clean up the financial accountability problems that have plagued it in the past, as demonstrated over the past eight months, must continue.

Finally, effective program oversight is necessary. This should be accomplished principally through a commitment by Park Service senior management to a plan of action to ensure effective implementation of the fee and cost recovery program. As a final check on the system, we would be willing, in the Office of Inspector General, to expand our annual Chief Financial Officer's Act audits to include an evaluation of the internal accounting controls and testing of the accounting transactions associated with the activities covered by the proposed amendment. By so doing, our audit reports would then disclose any reportable weaknesses or deficiencies associated with these revenues.

In concluding my opening remarks I would like to have, in addition to my complete written statement, a copy of the recent special use fees audit report included in the record.

Mr. HANSEN. Without objection.

[The prepared statement and audit of Ms. Lewis can be found at the end of the hearing.]

Ms. LEWIS. And I would now be happy to answer any questions that the subcommittee may have.

Mr. HANSEN. I think you had excellent testimony and it was very good. It rather highlighted many of the problems we have. Here we have every park doing it the way they want to do it almost and also we realize there is a reduction in money going into the parks and somehow we have got to figure out how to do that. And of course, as you know, not only the part of the Richardson bill you are referring to, we also have a fee bill both for uses and entrance in ways to bring money into the parks. It doesn't do any good if we don't use the money wisely. You may recall under the Reagan years we put an awful lot of money in and we didn't see the results of it. So that is one of the reasons for this park reform bill, is to have a grace commission look at it and see how they would come up with it. Mrs. Chenoweth.

Mrs. CHENOWETH. Thank you, Mr. Chairman. I am being called on for questions, right?

Mr. HANSEN. You are recognized for five minutes to ask the witness any questions you so desire.

Mrs. CHENOWETH. Madam Inspector, what has been the trend in the total amount of funding generated by the National Park Service from the special park use fees in recent years? As appropriated dollars become more difficult to secure it is logical to expect that such funding sources will become even more important.

Ms. LEWIS. As you know, the audit that we recently completed on special use fees focused on fiscal year 1994, and in that particular year there were total revenues of $3.8 million for special use fees. We do not know the revenues for prior years, but I think it is safe to assume that the likelihood would be that the revenues from special use fees would be increasing. I say that because, during the course of our audit, we found that as the legal authorities expanded for the collection and retention of fees for various activities, more and more of the parks were starting to identify new activities that would presumably fall under the legislation. More and more of the parks, in addition to identifying those new activities, were converting other activities to special use activities in order to collect and retain the fees. So I would imagine that the trend would be an increase in revenues as the park officials grow more accustomed to the programs and as they identify more and more activities that would fall within the scope of the programs.

With respect to the appropriated dollars becoming more scarce, I think it is logical to assume that that would be an added impetus for an increase in these types of fees and fee collection.

Mrs. CHENOWETH. Thank you, Ms. Lewis. Thank you, Mr. Chairman.

Mr. HANSEN. Excuse me. Thank you for your comment. I turn to the gentleman from California. Are you finished, Mrs. Chenoweth?

Mr. POMBO. Thank you, Mr. Chairman. In your report you say that there were fees that were not collected. Did you ascertain as to why they were not collected?

Ms. LEWIS. Well, it appeared that once again, going back to the same common thread that we found, that there was not sufficient guidance with respect to the types of activities that were covered. And that is why, as I indicated, what you would find is that one park would be collecting for certain activities, while another park would not—picnics, weddings, et cetera. And there are a couple of appendices attached to the audit report that indicate which parks were collecting for which activities. So my best guess on that would be that, if there were better guidance coming centrally from the Park Service headquarters, the individuals at the individual park unit level who are applying the legislation would have been better prepared to address the scope of activities that potentially could fall within the legislation.

Mr. POMBO. So you came to the conclusion it was because in many cases they didn't know that they could or should collect for those types of activities?

Ms. LEWIS. I wouldn't say that we came to that conclusion. I would say that that is probably a logical conclusion to draw. There was insufficient guidance. It is not clear that all of the parks knew the extent of the program. I think that, as I mentioned before, as parks become more familiar with the various programs, they are including more activities under those programs. I would imagine there might be particular examples at individual parks where the park personnel consciously decided not to charge for a particular activity, but generally the problem that we found was insufficient guidance. So I would imagine that insufficient guidance probably played a role in what may or may not have been charged under the particular legislation.

Mr. POMBO. In reading this, there was one place in here where you say that some of the parks would collect for movies or film sites. You said that in one of the parks that they collected for some of them but not for others. How did you determine that the activity was going on? Did they have to get a permit to film and fees were not collected?

Ms. LEWIS. These are all activities that are special use activities, and the definition of special use activities is that the activities required some form of written permission from a park official. So these would have been activities that required a permit, although there were distinctions between requiring a permit and also requiring a fee. There are many activities for which a permit was required but no fee was required. And this varied from one park to another. So we were able to identify from the information that the park gave us, which activities required a permit, and which of those activities they were or were not collecting for. So it was all from information that the park gave us with respect to whatever program they were putting into place at that particular park.

Mr. POMBO. So, and I think I am correct, in one place here you talk about the Golden Gate Park and you say that in some instances they did collect and in other instances they didn't, but if someone didn't get the permit, by your review of this, you wouldn't even have known that they were there, so there could have been

other activities that occurred there that didn't even turn up in your audit?

Ms. LEWIS. That is correct. In other words, there is no way for us to be certain that we captured, for example, all of the filming activities or all of the weddings or all of the picnics. I do not believe that the Park Service had a data base that captured that type of information, so it is quite possible that there may well have been others of these types of activities that we were not made aware of during the course of the audit.

Mr. POMBO. Maybe this isn't even a correct question for you, but do you have an idea as a way to motivate the park superintendents or the park managers to collect that money?

Ms. LEWIS. I am sorry, what would motivate them to collect it?

Mr. POMBO. Yes.

Ms. LEWIS. I don't know for sure, but I could certainly make a good guess. I think an incentive certainly could be the ability to retain the fees. Initially, for example, prior to 1991 the parks were only able to retain unbudgeted costs, which would be the ones over and above what you would normally expect to occur with respect to a particular activity. And then as of 1991 they were given the opportunity to retain not only unbudgeted but also budgeted costs—the regular costs associated with the particular activity. I think this certainly created an incentive for them to charge and collect fees for particular activities—a greater incentive, probably, than before. And that is why, as I mentioned before, oftentimes we found that parks converted activities that initially were not under the special use permit category from whatever authority they were collecting under before to a special use activity because of the ability to retain both unbudgeted and budgeted costs. So I think that the ability to retain the revenues probably would be one strong motivation for collecting the fees.

Mr. POMBO. Thank you very much.

Mr. HANSEN. Thank you. Let me just ask a couple quick questions if I may.

Ms. LEWIS. Certainly.

Mr. HANSEN. Do any other Interior bureaus have similar authorities where they have broad discretion as to when to charge and for what type of activities you charge fees? Do any other bureaus in the Department have authority to retain fees which are not subject to appropriation?

Ms. LEWIS. That is a question, Mr. Chairman, that I don't think I can answer definitively. As I am sure you are aware, there are lots of different statutes that apply to the different offices and bureaus within the Department of the Interior. There are some that pertain to recovery of costs. There are some that go beyond the recovery of costs. I know, for example, there is a copying statute which allows offices within the Department to collect fees for copying materials and to retain those fees, I believe. I think that the answer to that question really would require a pretty exhaustive legal review of the different authorities—a review which I, quite frankly, have not undertaken. So beyond that I don't think I would be able to answer your question.

Mr. HANSEN. I probably wouldn't want to put you through that too much, but if you could look at it without spending six months

on it just to give kind of an overview, I will give you this question in writing. And this other question I would also like you to respond to. And this is the question. Are you aware of any other Federal agencies who have the authority to "make money" by retaining the difference between actual costs and fair market value for goods or services rendered without being subject to appropriation? That is two questions this committee would like to know because we are playing around with that as we massage this thing and find out which way we want to go. Our goal is to get more money to the parks to be used for their benefit. And we also want to have the parks retain some of that money for their own benefit subject to an audit of some kind. So I will submit those two to you if you wouldn't mind giving us some type of an answer on it. Would that be OK?

Ms. LEWIS. We will do the best that we can on it, Mr. Chairman. I think what we probably would do is work with the Solicitor's Office on that, because as you know, the Solicitor's Office is really the office that is probably better equipped than we are to handle that kind of an issue. But we will get the question from you and work with them and try to respond to your question.

Mr. HANSEN. That would be very kind of you, and I do appreciate your testimony. I notice the gentleman from New Jersey walked in, but it doesn't look to me like he is up at the dais. Do you have any question? No questions. OK, thank you again and I appreciate your patience for being with us. We appreciate it very much.

Ms. LEWIS. Thank you very much.

Mr. HANSEN. Our next item to be heard is H.R. 2464. We have three people that we would like to have come up as witnesses: Mr. Mat Millenbach, Deputy Director, Bureau of Land Management, Department of the Interior; Mr. John Harja, Utah School and Institutional Trust Land Administration; and Mr. John Paul Kennedy, Attorney for the Goshute Indian Tribe. I appreciate you being with us.

The Utah School and Lands Improvement Act of 1993 is to add about 8,000 acres of Utah State trust lands to the Goshute Indian Reservation. The Utah School and Lands Improvement Act passed in 1993 is an important bill to all Utahns. After much hard work and the cooperation of all interested parties, we were able to pass legislation that was meant to help pay for the education of Utah's children. The bill before us would amend Public Law 103–93 to correct a boundary problem on the southern edge of the Goshute Indian Reservation located about 60 miles south of Wendover, Utah. It would accomplish this by transferring nearly 8,000 acres of Utah State trust lands and about 400 acres of lands managed by the Bureau of Land Management to the Goshute Tribe. I know it is a somewhat dangerous thing to say around here, but as far as we can see, the transfer is non-controversial and supported by all interested parties. I received letters of support for the transfer from the State of Utah, Juab County, the Goshute Tribe and even the Utah Wilderness Coalition, which is against everything. I welcome our witnesses and appreciate their willingness to provide this subcommittee with their testimony. Mr. Millenbach, we will turn to you, sir.

STATEMENT OF MAT MILLENBACH, DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Mr. MILLENBACH. Good afternoon, Mr. Chairman, members of the committee. Thank you for the opportunity to testify today on H.R. 2464, which amends Public Law 103–93 to add additional lands to the Goshute Indian Reservation in the State of Utah. We support H.R. 2464 with a suggested amendment.

P.L. 103–93, the Utah Schools and Lands Improvement Act of 1993, authorized and directed the exchange of approximately 200,000 acres of Utah's institutional and trust lands located within the boundaries of national parks, national forests or Indian reservations for certain lands and interests. This exchange was to resolve Federal and State land management problems resulting from interspersed landownership. H.R. 2464 amends the 1993 act by placing approximately 8,000 acres of land within the boundaries of the Goshute Indian Reservation in trust for the tribe. Approximately 7,000 acres of this land are currently owned by the State of Utah and will become part of the reservation upon acquisition by the United States.

The public lands to be placed in trust include four parcels of about 320 acres where both the surface and subsurface are managed by BLM and another 960 acres of reserved Federal minerals. The reserved minerals are not encumbered by any leases or claims of record. The four parcels under BLM surface management will be removed from an existing grazing allotment following passage of the bill. No reduction in authorized animal unit months for the grazing operator's permit will occur as a result of these lands being converted to trust status.

The Secretary of the Interior must compensate the State of Utah for the State lands transferred to the Secretary through an equal value exchange of Federal lands or interests as described in Section 7 of P.L. 103–93. This is a reasonable proposal and one which we support. The bill requires the Goshute Tribe to pay the appraisal costs of these lands and we support this position.

I do want to comment that when Mr. Kennedy makes his comments he will be referring to a different map than the one that we had available to us and he is going to be talking about an additional two or three hundred acres of State land on the southern portion of the lands to be added. We just need to check this to make sure the status is accurate and that there aren't any conflicts. I don't believe there are. And we will get back with you on those additional acres as soon as we can. Thank you.

[The prepared statement of Mr. Millenbach can be found at the end of the hearing.]

Mr. HANSEN. Thank you, Mr. Millenbach.

Mr. John Harja.

STATEMENT OF JOHN HARJA, UTAH SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Mr. HARJA. Thank you, Mr. Chairman. I am Vice Chair of the Board of Trustees responsible under State law for the School and Institutional Trust Lands that are involved in Public Law 103–93 and this proposed amendment. 103–93, as you recall, was one the

Trust pushed to take the trust lands found inside the national parks, national forests and two Indian reservations, one of which is the Goshutes, and exchange them in an equal value exchange for other Federal assets.

I just wanted to comment here that is a very, very large project. There are 575 separate tracts involved, 200,000 acres; a whole army of people are swarming over the State right now trying to appraise and otherwise set values out.

As part of that process, the Goshute Tribe back in 1993 did ask if we would include the lands that are subject to this amendment. At the time we did not because it presented different issues and we were trying to focus on the inholdings. These lands are technically not inholdings. They are next door to the reservation. The reservation will be expanded southward if these are acquired.

The Board of Trustees has met and is willing, perfectly amenable to doing this. However, because they are not inholdings, we would not want to pay for the appraisal. As I said, this army of appraisers is out there. I don't think the incremental cost of adding these lands is very much; nonetheless, the Trust would not want to pay for that. Second, it has been two years since the Act was passed. We are in this difficult process that we knew we would be in of valuing and wrangling over how to pay for things. A number of issues have arisen on both sides that gee, I wish we had said this or said that. We do not believe this proposed amendment is the place to deal with that. If that needs to be dealt with, we would come back with you separately. Therefore, we would ask that this bill stay clean of any other type amendments and just authorize the additional acreage to be exchanged with the Goshute Tribe. Thank you, Mr. Chairman.

[The prepared statement of Mr. Harja can be found at the end of the hearing.]

Mr. HANSEN. Thank you, Mr. Harja. Mr. Kennedy, we will try to go easier on you than the last Kennedy that was in here.

Mr. KENNEDY. Thank you. Being from Utah and interested in family history and genealogy, I just wanted to let the committee know that as far as I am aware there is no relationship between John Paul Kennedy and Roger Kennedy.

Mr. HANSEN. Well, we accept that.

Mr. KENNEDY. Thank you.

Mr. HANSEN. I have great respect for both of you, however.

STATEMENT OF JOHN PAUL KENNEDY, ATTORNEY, GOSHUTE INDIAN TRIBE

Mr. KENNEDY. Well, thank you. Mr. Chairman, thank you for allowing us to come in today and testify on this bill that is very important to my client, the Goshute Indian Tribe. We have prepared a statement and I won't read it. I ask that it be included in the record with the exhibits that are attached.

I think the substance of the bill has been adequately summarized by the Department and by the State representative, and I don't have anything further to say other than with respect to the exhibits that we have attached; there are actually two maps and the map that we are relying on is the second of the two and it includes this additional 250 acres or so right along the southern boundary

that if it is trust land as we believe it is, would be included. And as indicated by Mr. Millenbach, the Department's position on that will be relayed to you, as I understand it. I have nothing further to add. If there are any questions, I'll be happy to respond.

[The prepared statement of Mr. Kennedy can be found at the end of the hearing.]

Mr. HANSEN. Thank you. Mr. Pombo.

Mr. POMBO. No questions.

Mr. HANSEN. No questions, Mr. Pombo. I think I am quite familiar with this. Mr. Kennedy has been our office. We understand where the BLM is coming from. We have talked to the State many times about it. As far as I am concerned, this should be a non-controversial bill unless we elect to tack on it something like a park bill or something to go along or maybe the BLM closing bill. They would like that, Mat. And other than that, if we keep it clean, I think you are all right. With that and nobody from the minority side, I would just like to read one thing into the record if I can put my hands on it.

I would like to take a minute to clarify a point raised earlier here with regard to swearing in of witnesses. In the most general sense, we as a society and in our public institutions have a moral expectation that everyone will tell us the unvarnished truth. However, human experience also tells us that varnish has proven to be a very useful substance, especially in the arena of politics.

Swearing in witnesses is a way of highlighting the boundaries of opinion and is a tool that has been available to Congress since the founding of the Republic. Administering the oath does not imply that a witness has lied in the past or that there is an expectation that a witness may lie presently. It does make explicit the expectation of members that witnesses should stick to the facts, and it makes them subject to legal sanctions if they don't.

If you think about it, a truthful witness should welcome the oath because it lends credibility to his words by affirming his candor. Likewise, I think members should welcome the oath if it clears the air on issues of intense and passionate disagreement.

For that reason, I will reserve my right to use the oath, as have all other Chairmen past and present, as the situation warrants. And with that, this meeting stands adjourned and thank you.

[Whereupon, at 1:48 p.m., the subcommittee was adjourned, and the following was submitted for the record:]

I

104TH CONGRESS
1ST SESSION

H. R. 2067

To facilitate improved management of National Park Service lands.

IN THE HOUSE OF REPRESENTATIVES

JULY 19, 1995

Mr. HANSEN introduced the following bill; which was referred to the Committee on Resources

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A BILL

To facilitate improved management of National Park Service lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—MINOR BOUNDARY REVISIONS

Section 7(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9(c)) is amended—

(1) in the first sentence by striking "Committee on Interior and Insular Affairs" and inserting "Committee on Resources"; and

(2) by striking "area: PROVIDED, HOWEVER," and all that follows through "1965;" and inserting the following: "area, except that, in all cases except

the case of technical boundary revisions (resulting from such causes as survey error or changed road alignments), the authority of the Secretary under this clause (i) shall apply only if each of the following conditions is met—

(I) the sum of the total acreage of lands, waters, and interests therein to be added to the area and the total such acreage to be deleted from the area is not more than 5 percent of the total Federal acreage authorized to be included in the area and is less than 200 acres in size;

(II) the acquisition, if any, is not a major Federal action significantly affecting the quality of the human environment, as determined by the Secretary;

(III) the sum of the total appraised value of the lands, waters, and interest therein to be added to the area and the total appraised value of the lands, waters, and interests therein to be deleted from the area does not exceed $500,000;

(IV) the proposed boundary revision is not an element of a more comprehensive boundary modification proposal; and

(V) the Director of the National Park Service obtains written support for the boundary modification from all property owners whose lands, water, or interests therein, or a portion of whose lands, water, or interests therein, will be added to or deleted from the area by the boundary modification: *Provided, however,* that minor boundary revisions involving only deletions of acreage from an area of the national parks system may be made only by Act of Congress.

TITLE II—AUTHORIZATION FOR CERTAIN PARK FACILITIES TO BE LOCATED OUTSIDE OF UNITS OF THE NATIONAL PARK SYSTEM

Section 4 of the Act entitled "An Act to improve the administration of the national park system by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes" approved August 18, 1970 (16 U.S.C. 1a–1 et seq.), is amended to read as follows:

"SEC. 4. (a) In order to facilitate the administration of the national park system, the Secretary of the Interior is authorized, under such terms and conditions as he may deem advisable, to establish essential facilities for park ad-

ministration, visitor use, and park employee residential housing outside the boundaries, but within the vicinity, of units of the national park system for purposes of assuring conservation, visitor use, and proper management of such units. Such facilities and the use thereof shall be in conformity with approved plans for the unit concerned. Such facilities may only be developed by the Secretary upon finding that location of such facilities would—

"(1) avoid undue degradation of the primary natural or cultural resources within the unit;

"(2) enhance service to the public; or

"(3) provide a cost saving to the Federal Government.

"(b) For the purpose of establishing facilities under subsection (a):

"(1) The Secretary may enter into agreements permitting the Secretary to use such Federal lands as the head of a Federal agency having primary authority over the administration of such land and the Secretary determine is suitable for such use.

"(2) The Secretary, under such terms and conditions as the Secretary determines are reasonable, may lease or acquire (from willing sellers only) by purchase or donation, real property (other than Federal land), for purposes as specified in this section.

"(3) For real property acquired pursuant to paragraph (2), the Secretary shall establish written guidelines setting forth criteria to be used in determining whether the acquisition would—

"(A) reflect unfavorably upon the ability of the Department or any employee to carry out its responsibilities or official duties in a fair and objective manner; or

"(B) would compromise the integrity or the appearance of the integrity of the Department's programs or any official involved in those programs.

"(4) The Secretary may construct, operate, and maintain such permanent and temporary buildings and facilities as the Secretary deems appropriate on land which is in the vicinity of any unit of the national park system for which the Secretary has acquired authority under this section, except that the Secretary may not begin construction, operation, or maintenance of buildings or facilities on land not owned by the United States until the owner of such lands has entered into a binding agreement with the Secretary, the terms of which assure the continued use of such buildings and facilities for a period of

time commensurate with the level of Federal investment.".

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104TH CONGRESS
1ST SESSION

H. R. 2025

To amend the Land and Water Conservation Fund Act of 1965 as regards the National Park Service, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 12, 1995

Mr. RICHARDSON (by request) introduced the following bill; which was referred to the Committee on Resources

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A BILL

To amend the Land and Water Conservation Fund Act of 1965 as regards the National Park Service, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Park Renewal Fund Act".

SEC. 2. FEES.

(a) ADMISSION FEES.—Section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(a)) is amended as follows:

(1) Delete "fee-free travel areas" and "lifetime admission permit" from the title of this section.

(2) In paragraph (a)(1)(A)(i) by striking the first and second sentences and inserting in lieu thereof, "For admission into any such designated area, an annual admission permit (to be known as the Golden Eagle Passport) shall be available for a fee and under such conditions as to be determined by the Secretary of the Interior and the Secretary of Agriculture.".

(3) In paragraph (a)(1)(B) by striking the second sentence.

(4) Delete paragraph (a)(2) in its entirety and insert in lieu thereof: "Reasonable admission fees for a single visit to any designated unit shall be established by the administering Secretary for persons who choose not to purchase the annual permit. A 'single visit' means a continuous stay within a designated unit. Payment of a single visit admission fee shall authorize exits from and reentries to a designated unit for a period to be defined for each designated unit by the administering Secretary based upon a determination of the period of time reasonably and ordinarily necessary for such a single visit."

(5) In paragraph (a)(3) by inserting the word "Great" in the third sentence before "Smoky".

(6) In paragraph (a)(3) delete the last sentence.

(7) Delete paragraph (a)(4) in its entirety and insert in lieu thereof: "The Secretary of the Interior and the Secretary of Agriculture shall establish procedures for discounted admission fees to any citizen of, or person legally domiciled in, the United States sixty-two years of age or older, such discount to be received upon proof of age. Any such discount will be nontransferable, applied only to the individual qualifying on the basis of age, and given notwithstanding the method of travel. No fees of any kind shall be collected from any persons who have a right of access for hunting or fishing privileges under a specific provision of law or treaty or who are engaged in the conduct of official Federal, State, or local government business.".

(8) Delete paragraph (a)(5) in its entirety and insert in lieu thereof: "The Secretary of the Interior and the Secretary of Agriculture shall establish procedures providing for the issuance of a lifetime admission permit to any citizen of, or person legally domiciled in, the United States, if such citizen or person applies for such permit and is permanently

disabled. Such procedures shall assure that such permit shall be issued only to persons who have been medically determined to be permanently disabled. Such permit shall be nontransferable, shall be issued without charge, and shall entitle the permittee and one accompanying individual to general admission into any area designated pursuant to this subsection, notwithstanding the method of travel.".

(9) In paragraph (a)(6)(A) by striking "No later than 60 days after December 22, 1987" and inserting "No later than six months after enactment" and striking "Interior and Insular Affairs" and inserting "Resources".

(10) Delete paragraphs (a)(9) and (a)(11) in their entirety. Renumber current paragraph "(10)" as "(9)" and current paragraph "(12)" as "(10)".

(b) RECREATION FEES.—Section 4(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(b)) is amended as follows:

(1) Delete "FEES FOR GOLDEN AGE PASSPORT PERMITTEE" from section title.

(2) Delete the following: "personal collection of the fee by an employee or agent of the Federal agency operating the facility".

(3) Delete "Any Golden Age Passport permittee, or" and insert in lieu thereof "Any".

(c) CRITERIA, POSTING AND UNIFORMITY OF FEES.—Section 4(d) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(d)) is amended by deleting from the first sentence "recreation fees charged by non-Federal public agencies," and inserting in lieu thereof "fees charged by other public and private entities,".

(d) RULES AND REGULATIONS.—Section 4(e) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(e)) is amended by deleting "of not more than $100." and inserting in lieu thereof "as provided by law."

(e) FEDERAL AND STATE LAWS UNAFFECTED.—Section 4(g) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(g)) is amended by deleting the following in the first sentence "or fees or charges for commercial or other activities not related to recreation," and inserting ": *Provided, however,* That in those park areas under partial (if applicable) or exclusive jurisdiction of the United States where State fishing licenses are not required, the National Park Service may charge a fee for fishing.".

(f) TECHNICAL AMENDMENTS.—Section 4(h) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(h)) is amended—

(1) by striking "Bureau of Outdoor Recreation" and inserting in lieu thereof, "National Park Service";

(2) by striking "Interior and Insular Affairs of the United States House of Representatives and United States Senate" and inserting in lieu thereof, "Resources of the United States House of Representatives and on Energy and Natural Resources of the United States Senate"; and

(3) by striking "Bureau" and inserting in lieu thereof, "National Park Service".

(g) USE OF FEES.—Section 4(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(i)) is amended as follows:

(1) After "(i)" by inserting "USE OF FEES.—".

(2) In the first sentence of subparagraph (B) by striking "fee collection costs for that fiscal year" and inserting in lieu thereof "fee collection costs for the immediately preceding fiscal year" and by striking "section in that fiscal year" and inserting in lieu

thereof "section in such immediately preceding fiscal year".

(3) In the second sentence of subparagraph (B) by striking "in that fiscal year".

(4) By adding the following at the end of paragraph (1):

"(C) Notwithstanding subparagraph (A), beginning in fiscal year 1996 and each fiscal year thereafter, all additional fee revenue generated by the National Park Service through enactment of this legislation, as authorized to be collected pursuant to subsection 4 (a) and (b), shall be covered into a special fund established in the Treasury of the United States to be known as the 'National Park Renewal Fund'. In fiscal year 1997 and each fiscal year thereafter, the amount of additional fee revenue generated in the immediately preceding fiscal year by the National Park Service through enactment of this legislation shall be available to the Secretary of the Interior, without further provision in appropriations Acts, for infrastructure needs at parks including but not limited to facility refurbishment, repair and replacement, interpretive media and exhibit repair and re-

placement, and infrastructure projects associated with park resource protection. Such amounts shall remain available until expended. The Secretary shall develop procedures for the use of the fund that ensure accountability and demonstrated results consistent with the purposes of this Act. Beginning the first full fiscal year after the creation of the 'National Park Renewal Fund', the Secretary shall submit an annual report to the Congress, on a unit-by-unit basis, detailing the expenditures of such receipts. In fiscal year 1996 only, fees authorized to be collected pursuant to subsections 4 (a) and (b) of this Act may be collected only to the extent provided in advance in appropriations Acts.".

(5) Paragraph (4)(A) is amended by striking "resource protection, research, and interpretation" and inserting in lieu thereof "park operations".

(h) SELLING OF PERMITS.—Section 4(k) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(k)) is amended by—

(1) striking "SELLING OF ANNUAL ADMISSION PERMITS BY PUBLIC AND PRIVATE ENTITIES

UNDER ARRANGEMENTS WITH COLLECTING AGENCY HEAD" from the title of this section; and

(2) deleting the last two sentences, regarding the sale of Golden Eagle Passports, from this section.

(i) CHARGES FOR TRANSPORTATION PROVIDED BY THE NATIONAL PARK SERVICE.—(1) Section 4(l)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(1)) is amended by striking the word "VIEWING" from the section title and inserting in lieu thereof "VISITING".

(2) Section 4(l)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(1)) is amended by deleting the word "view" and inserting in lieu thereof "visit".

(3) Section 4(l)(2) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(1)) is amended by deleting paragraph (2) and inserting in lieu thereof: "Notwithstanding any other provision of law, the charges imposed under paragraph (1) shall be retained by the unit of the National Park System at which the service was provided. The amount retained shall be expended for costs associated with the transportation systems at the unit where the charge was imposed.".

(j) COMMERCIAL TOUR FEES.—Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(n)) is amended by striking section (2) in its entirety and inserting in lieu thereof:

"(2) The Secretary shall establish a flat fee, per entry, for such vehicles. The amount of the said flat fee shall reflect both the commercial tour use fee rate and current admission rates.".

(k) FEES FOR SPECIAL USES.—Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a) is amended by adding the following at the end thereof:

"(o) FEES FOR COMMERCIAL NONRECREATIONAL USES.—Utilizing the criteria established in section 4(d) (16 U.S.C. 460l–6a(d)), the Secretary of the Interior shall establish reasonable fees for non-recurring commercial or non-recreational uses of National Park System units that require special arrangements, including permits. At a minimum, such fees will cover all costs of providing necessary services associated with such use, except that at the Secretary's discretion, the Secretary may waive or reduce such fees in the case of any organization using an area within the National Park System for activities which further the goals of the National Park Service. Receipts from such fees may be retained at the park unit in which the

use takes place, and remain available, without further appropriation, to cover the cost of providing such services. The portion of such fee which exceeds the cost of providing necessary services associated with such use shall be deposited into the National Park Renewal Fund.".

(l) FEE AUTHORITY.—Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a) is amended by adding the following new subsection at the end thereof:

"(p) ADMISSION OR RECREATION USE FEES.—No admission or recreation use fee of any kind shall be charged or imposed for entrance into, or use of, any federally owned area operated and maintained by a Federal agency and used for outdoor recreation purposes, except as provided for by this Act.".

SEC. 3. PROHIBITION OF COMMERCIAL VEHICLES, DELAWARE WATER GAP NATIONAL RECREATION AREA.

(a) IN GENERAL.—Effective at noon on September 30, 2005, the use of Highway 209 within the Delaware Water Gap National Recreation Area by commercial vehicles, when such use is not connected with the operation of the recreation area, is prohibited, except as provided in section (b).

(b) LOCAL BUSINESS USE PROTECTED.—Subsection (a) does not apply with respect to the use of commercial vehicles to serve businesses located within or in the vicinity of the recreation area, as determined by the Secretary.

(c) CONFORMING PROVISIONS.—(1) Paragraphs (1) through (3) of the third undesignated paragraph under the heading "ADMINISTRATIVE PROVISIONS" in chapter VII of title I of Public Law 98–63 (97 Stat. 329), are repealed, effective September 30, 2005.

(2) Prior to noon on September 30, 2005, the Secretary shall collect and utilize a commercial use fee from commercial vehicles in accordance with paragraphs (1) through (3) of such third undesignated paragraph. Such fee shall not exceed $25 per trip.

SEC. 4. CHALLENGE COST-SHARE AGREEMENTS.

(a) AGREEMENTS.—The Secretary of the Interior is authorized to negotiate and enter into challenge cost-share agreements with cooperators. For purposes of this section, the term—

(1) "challenge cost-share agreement" means any agreement entered into between the Secretary and any cooperator for the purpose of sharing costs or services in carrying out authorized functions and responsibilities of the Secretary with respect to any unit or program of the National Park System (as

defined in section 2(a) of the Act of August 8, 1953 (16 U.S.C. 1c(a)), any affiliated area, or designated National Scenic or Historic Trail; and

(2) "cooperator" means any State or local government, public or private agency, organization, institution, corporation, individual, or other entity.

(b) USE OF FEDERAL FUNDS.—In carrying out challenge cost-share agreements, the Secretary is authorized to provide the Federal funding share from any funds available to the National Park Service.

SEC. 5. DONATIONS.

(a) REQUESTS FOR DONATIONS.—In addition to the Secretary's other authorities to accept the donation of lands, buildings, other property, services, and moneys for the purposes of the National Park System, the Secretary is authorized to solicit donations of money, property, and services from individuals, corporations, foundations and other potential donors who the Secretary believes would wish to make such donations as an expression of support for the national parks. Such donations may be accepted and used for any authorized purpose or program of the National Park Service, and donations of money shall remain available for expenditure without fiscal year limitation. Any employees of the Department to whom this au-

thority is delegated shall be set forth in the written guidelines issued by the Secretary pursuant to paragraph (d).

(b) EMPLOYEE PARTICIPATION.—Employees of the National Park Service may solicit donations only if the request is incidental to or in support of, and does not interfere with their primary duty of protecting and administering the parks or administering authorized programs, and only for the purpose of providing a level of resource protection, visitor facilities, or services for health and safety projects, recurring maintenance activities, or for other routine activities normally funded through annual agency appropriations. Such requests must be in accordance with the guidelines issued pursuant to subparagraph (d).

(c) PROHIBITIONS.—(1) A donation may not be accepted in exchange for a commitment to the donor on the part of the National Park Service or which attaches conditions inconsistent with applicable laws and regulations or that is conditioned upon or will require the expenditure of appropriated funds that are not available to the Department, or which compromises a criminal or civil position of the United States or any of its departments or agencies or the administrative authority of any agency of the United States.

(2) In utilizing the authorities contained in this section employees of the National Park Service shall not di-

rectly conduct or execute major fundraising campaigns, but may cooperate with others whom the Secretary may designate to conduct such campaigns on behalf of the National Park Service.

(d) GUIDANCE.—(1) The Secretary shall issue written guidelines setting forth those positions to which he has delegated his authority under paragraph (a) and the categories of employees of the National Park Service that are authorized to request donations pursuant to paragraph (b). Such guidelines shall also set forth any limitations on the types of donations that will be requested or accepted as well as the sources of those donations.

(2) The Secretary shall publish guidelines which set forth the criteria to be used in determining whether the solicitation or acceptance of contributions of lands, buildings, other property, services, moneys, and other gifts or donations authorized by this section would reflect unfavorably upon the ability of the Department of the Interior or any employee to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity or the appearance of the integrity of its programs or any official involved in those programs. The Secretary shall also issue written guidance on the extent of the cooperation that may be provided by National Park Service employees in any major fundraising cam-

paign which the Secretary has designated others to conduct pursuant to paragraph (c)(2).

SEC. 6. COST RECOVERY FOR DAMAGE TO NATIONAL PARK RESOURCES.

Public Law 101–337 is amended as follows:

(a) In section 1 (16 U.S.C. 19jj), by amending subsection (d) to read as follows:

"(d) 'Park system resource' means any living or nonliving resource that is located within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.".

(b) In section 1 (16 U.S.C. 19jj) by adding at the end thereof the following:

"(g) 'Marine or aquatic park system resource' means any living or nonliving part of a marine or aquatic regimen within or is a living part of a marine or aquatic regimen within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.".

(c) In section 2(b) (16 U.S.C. 19jj–1(b)), by striking "any park" and inserting in lieu thereof "any marine or aquatic park".

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104TH CONGRESS
1ST SESSION

H. R. 2465

To establish 5-year terms for, and require the advice and consent of the Senate in the appointment of, the Director of the National Park Service, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 11, 1995

Mr. HANSEN introduced the following bill; which was referred to the Committee on Resources

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A BILL

To establish 5-year terms for, and require the advice and consent of the Senate in the appointment of, the Director of the National Park Service, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Park Service Professionalization Act".

SEC. 2. DIRECTOR OF THE NATIONAL PARK SERVICE.

The first section of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1; com-

monly referred to as the "National Park Service Organic Act"), is amended in the first sentence by striking "who shall be appointed by the Secretary" and all that follows and inserting "who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of five years and may be appointed to one additional term of three years. The Director may be removed by the President only for cause. The Director shall have substantial experience and demonstrated competence in Federal park management and natural or cultural resource conservation.".

SEC. 3. EFFECTIVE DATE AND APPLICATION.

The amendments made by this Act shall take effect on February 1, 1997, and shall apply with respect to the individual (if any) serving as the Director of the National Park Service on that date.

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104TH CONGRESS
1ST SESSION

H. R. 2464

To amend Public Law 103–93 to provide additional lands within the State of Utah for the Goshute Indian Reservation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 11, 1995

Mr. HANSEN introduced the following bill; which was referred to the Committee on Resources

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A BILL

To amend Public Law 103–93 to provide additional lands within the State of Utah for the Goshute Indian Reservation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITION OF CERTAIN UTAH STATE LANDS TO GOSHUTE INDIAN RESERVATION.

The Utah Schools and Lands Improvement Act of 1993 (107 Stat. 995) is amended—

(1) by redesignating section 11 as section 12; and

(2) by inserting after section 10 the following new section:

"SEC. 11. ADDITIONAL GOSHUTE INDIAN RESERVATION LANDS.

"(a) FURTHER ADDITIONS TO GOSHUTE RESERVATION.—In addition to the lands described in section 3, for the purpose of securing in trust for the Goshute Indian Tribe certain additional public lands and lands belonging to the State of Utah, which comprise approximately 8,000 acres of surface and subsurface estate, as generally depicted on the map entitled 'Additional Utah-Goshute Exchange', dated July 1, 1994, such public lands and State lands are hereby declared to be part of the Goshute Indian Reservation in the State of Utah effective upon the completion of conveyance of the State lands from the State of Utah and acceptance of title by the United States.

"(b) AUTHORIZATION.—The Secretary of the Interior is authorized to acquire through exchange those lands and interests in land described in subsection (a) which are owned by the State of Utah, subject to valid existing rights.

"(c) APPLICATION OF PRIOR PROVISIONS.—(1) Except as provided in paragraph (2), the remaining provisions of this Act which are applicable to the lands to be transferred to the Goshute Indian Tribe pursuant to section 3 shall also apply to the lands subject to this section.

"(2) The Goshute Indian Tribe will be responsible for payment of the costs of appraisal of the lands to be ac-

quired pursuant to this section, which costs shall be paid prior to the transfer of such lands.".

○

ROGER KENNEDY

This Congress is serious about ending Federal funding to organizations that devote much of their resources to litigation and lobbying.

Does the National Park Service award grants, contracts or other transfer of funds to environmental groups that engage in litigation and lobbying?

IF HE GIVES A WEAK ANSWER, ASK THE FOLLOWING.

For the record, could you please provide the subcommittee with a detailed accounting of all grants, contracts or other awards from the National Park Service to the following groups since January of 1993:

National Parks and Conservation Association
The Wilderness Society
National Audubon Society
National Wildlife Federation
The Nature Conservancy
American Rivers Inc.
Appalachian Trail Club

National Park Service
United States Department of the Interior

A proposal to refurnish the corridor and waiting area serving the office of the director of the National Park Service

The following proposal responds to a desire to improve the appearance, comfort, and utility of the corridor and waiting area serving the Office of the Director of the National Park Service.

This proposal recommends replacing the current furniture with period furnishings that relate to the building's architecture. Photographs with National Park Service themes complement wooden benches and sand jars, furnishings original to the Interior building. A desk of the same period has been located in the building to replace the modern secretary's desk at the inner end of the corridor.

Questions or comments regarding the proposal may be directed to Cynthia Darr, Division of Exhibits, 304 535 6287, or John Brucksch, Division of Historic Furnishings, 304 535 6119, both of the Harpers Ferry Center.

David G. Wright
Manager, Harpers Ferry Center

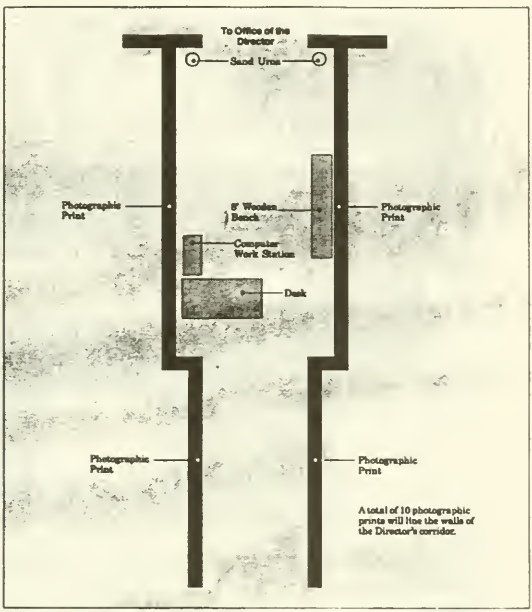
Prepared by the Harpers Ferry Center, Division of Exhibits and Division of Historic Furnishings, Harpers Ferry, West Virginia

Furnishings Plan

The following proposal for the Director's corridor provides furnishings and decor to these areas that is both compatable with the building's 1936 architecture and reflects the mission of the National Park Service.

The recommendations are based on the recently completed Historic Furnishings Report for the Main Interior Building. These furnishings, combined with photographs that create a historic ambiance, make a visual statement regarding the stewardship of the National Park Service.

Not to scale



In addition to the furniture indicated above, a series of four upholstered benches will be located along the corridor to provide seating for those waiting for appointments. Along the corridor walls will be hung framed photographic prints depicting National Park Service sites from which a series of 1934 postage stamps were created.

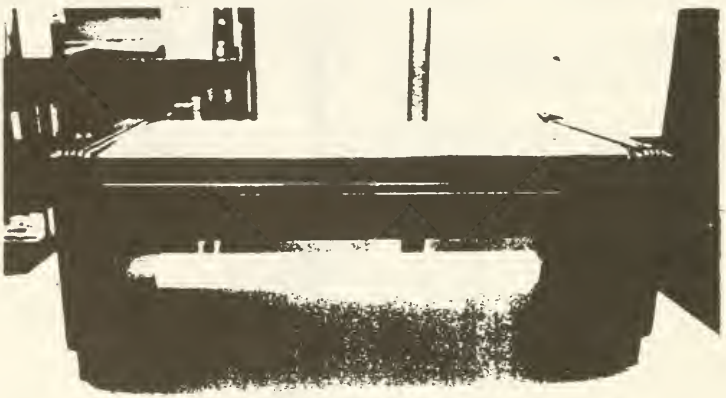
Additional work to be accomplished at the same time will consist of replacing the bronze lettering reading "National Park Service" on the outer portal of the corridor with lettering in New Times Roman, the style that is original to the building and the standard for lettering on new portals and other signage. The lettering reading "Director/National Park Service" on the outer kiosk would be replaced at the same time. Replacement of the OUTER PORTAL, as suggested in our earlier proposal, should still be considered if funding becomes available. A design sympathetic to the original interior architecture has been approved for use in the building. This design also allows for better placement of the bronze lettering. Carpeting will be removed after building modernization scheduled for the year 2003.

If funding permits, consideration should be given to replacing the name plates outside the offices with the bronze entry plaques that have been developed for use in the building, which incorporate period decorative motifs.

Item 1 *Original DOI Bench*

Positioned at four locations along the corridor and one in the waiting area, these benches will provide durable and comfortable seating for those waiting for appointments, while adding little physical and visual intrusion to the somewhat narrow space.

The benches are a component of the building's original furnishings.



Specifications

Dimensions:
One 96" wide, 19" high, 20" deep
Four 72" wide, 19" high, 20" deep

Wood Finish:
Mahogany

Cushions:
Medium Blue Leatherette

Cost

Harpers Ferry Center will perform the necessary conservation to the wooden benches. [illegible] coverings for the six foot benches at $125 each and one for the eight foot bench at $150 will incur costs of [illegible]

Item 2 *Original Urns*

Urns are original furnishings still found in various areas of the building. They were included in the furnishings plan for the lobbies and are recommended to coordinate with the building's decor and colors.

Specifications

Dimensions:
Six, small and large, approx. 24" diameter

Ceramic Finish:
Warm Light Grey

Cost

Urns are original to the building and can be found located throughout the building. They require conservation at Harpers Ferry Center before being placed in the corridor. An acrylic disk will be added to the opening of each urn to prohibit use.

Item 3

Desk

Desk is apparently a 1930s original consistent with the Department of the Interior furnishings and is functional as well as extremely attractive with spiral turned legs and brass hardware.

The photograph below shows a period desk of a style similar to the one proposed for use.

Specifications

Dimensions:
approx. 60" wide, 40" deep

Wood Finish:
Figured Mahogany

Cost

The desk is presently located at the Department of Interior warehouse. It requires conservation before placing in the Director's corridor.

Item **4**

Photographic Prints

A series of framed photographic prints are suggested for placement along corridor walls and in the waiting area. Historic black and white photographs are images used for the 1934 commemorative stamps from National Park Service sites including Yosemite, Grand Canyon, Mount Rainier, Mesa Verde, Yellowstone, Crater Lake, Acadia, Zion, Glacier, and Great Smokey Mountains.

A total of ten prints are recommended.

Specifications

Dimensions:

36" wide, 48" high vertical format
48" wide, 36" high horizontal format

Wood Frame Finish:

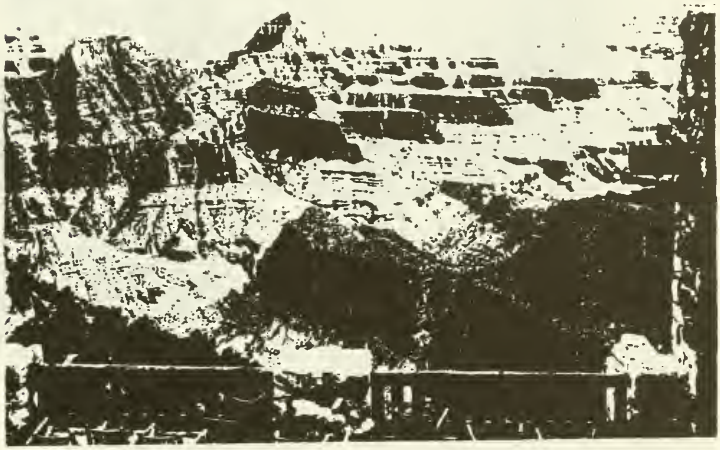
Light Mahogany to match furniture finishes

Cost

[redacted] A total of ten prints are recommended for a total cost of $8,000.00.

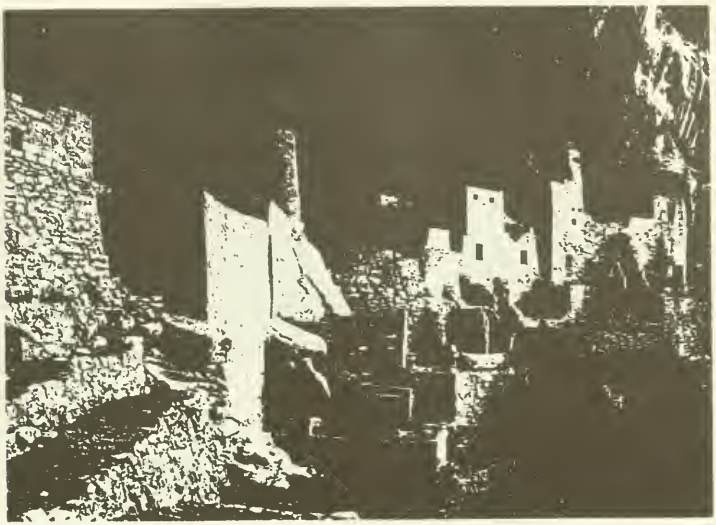
Item 4 *Yosemite National Park*

Item 4 *Grand Canyon National Park*



Item **4** *Mount Rainier National Park*

Item 4 *Mesa Verde National Park*



Item 4 *Yellowstone National Park*

Item 4 *Crater Lake National Park*

Item **4** *Acadia National Park*

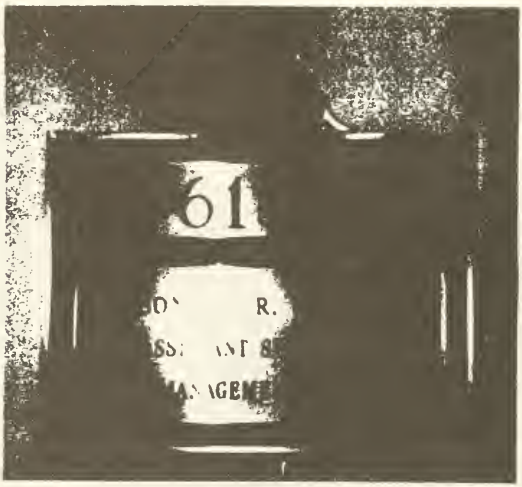
Item 4 *Zion National Park*

Item **4** *Glacier National Park*

Item **4** *Great Smoky Mountains National Park*

Item 5 *Bronze Entry Plaques*

These bronze plaques complement the overall design and original interior architector of the building. We recommend replacing outdated name plates outside offices with these plaques when funding permits.



Specifications

Dimensions:
8-1/2" wide, 6-1/2" high

Wood Frame Finish:
Bronze

Cost

Bronze entry plaques cost $60.00 each. The total cost to replace the nineteen name plates is $1,800.

Summary

Most of the furnishings contained in this proposal are original to the Main Interior Building and require conservation to be performed by staff at the Harpers Ferry Center. Costs incurred to complete this project follow.

Item 1	Original DOI Bench	$ 650.00
Item 2	Original Urns	*Conservation Only*
Item 3	Desk	*Conservation Only*
Item 4	Photographic Prints	6,000.00
	19 Bronze Entry Plaques ($95.00/ea)	1,805.00
	Outer Portal	10,000.00
	Bronze Lettering ($25.00/letter)	1,175.00
Total		$19,630.00

Approval

Deputy Director, National Park Service

STATEMENT OF ROGER G. KENNEDY, DIRECTOR OF THE NATIONAL PARK SERVICE, DEPARTMENT OF INTERIOR, BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND LANDS OF THE HOUSE RESOURCES COMMITTEE ON H.R. 2067, (TO FACILITATE IMPROVED MANAGEMENT OF NATIONAL PARK SERVICE LAND), H.R. 2025, (TO AMEND THE LAND AND WATER CONSERVATION FUND ACT OF 1965 AS REGARDS THE NATIONAL PARK SERVICE AND FOR OTHER PURPOSES), H.R. 2465, (A BILL TO ESTABLISH FIVE-YEAR TERMS FOR, AND REQUIRE THE ADVICE AND CONSENT OF THE SENATE IN THE APPOINTMENT OF, THE DIRECTOR OF THE NATIONAL PARK SERVICE, AND FOR OTHER PURPOSES).

OCTOBER 26, 1995

Mr. Chairman, thank you for the opportunity to appear before you today to discuss the views of the Department of Interior on three bills relating to the management of the National Park Service. The bills under consideration are H.R. 2067, which authorizes minor boundary revisions and provides leasing authority; three sections of H.R. 2025, which authorizes the collection of fees for certain uses; and H.R. 2465, a bill to establish a five-year term limit for the Director of the Park Service and require that he or she be confirmed by the Senate. We support H.R. 2067 with one technical amendment and H.R. 2025, but oppose H.R. 2465 as currently drafted for the reasons discussed below.

H.R. 2067, TO PROVIDE FOR MINOR BOUNDARY REVISIONS AND LEASING FACILITIES OUTSIDE PARKS.

H.R. 2067 comprises two titles, the first to allow minor boundary revisions of national parks, and the second, to authorize certain park facilities to be located outside of the National Park System.

Title I, Minor Boundary Revisions.

Title I would amend Section 7(c) of the Land and Water Conservation Fund Act of 1995 to extend the Secretary of Interior's authority to make minor boundary adjustments to existing park units, including those established prior to January 1, 1965. We support this effort to provide additional authority to make minor boundary adjustments administratively, and recommend enactment of this legislation with one minor amendment.

We are pleased the legislation makes it clear that deletions from park boundaries are only allowed under this authority when additions are made simultaneously. When deletions alone are recommended, they require an act of Congress. We believe this distinction is critical to prevent an Administration from misusing this authority to gradually eliminate entire units of the park system without appropriate oversight by Congress. Language which makes this distinction has been incorporated as a proviso at the very end of Title I of H.R. 2067. However, we believe the proviso should apply to the entire minor boundary adjustment authority under Section 7(c)(i), not merely to 7(c)(i)(V). We recommend the language be adjusted to meet this intent.

With this one clarification, we believe Title I of H.R. 2067 will ameliorate an ongoing problem the National Park Service has had with minor boundary adjustments due to the limitation of the current language in the Land and Water Conservation Fund Act of 1965. Congress in Section 7(c)(i) gave us a tool for making minor boundary adjustments without having to go through the entire legislative process. Unfortunately, the Land and Water Conservation Fund Act, as currently written, does not allow the use of this authority for adjustments to park boundaries

established prior to January 1, 1965.

Through discussions with our field directors, we learned that they are spending an inordinate amount of time and effort on minor boundary adjustments. Our discussions with members of the Committee have shown an understanding of this problem and an agreement that revising all boundaries through the legislative process is not a wise use of time and energy. An example of a minor boundary adjustment would be a revision needed for enlargement of visitor facilities, such as parking lots.

We conducted a brief analysis of minor boundary adjustments the National Park Service made in the last five years, and an analysis of those proposed to be made through legislation in this Congress. This review was done to ensure the conditions outlined in Title I of this bill were reasonable parameters to accomplish the desired boundary revisions. With the exception of a few minor boundary adjustments where property values are greater because of their proximity to urban areas, all criteria in Title I were generally met.

Since 1990, there have been approximately 30 minor boundary adjustments based on notification in the Federal Register, some containing multiple parcels. Only three would not have met the conditions set forth in this legislation, primarily because of the high property value in their respective areas. There are at least 15 minor boundary adjustments currently pending in Congress. Many of these involve relatively insignificant acreage. Based on information from our field directors, there are at least 15 additional minor boundary adjustment proposals which will

require legislation under current law. If H.R. 2067 is enacted, many of these will be resolved administratively.

Although Congress has given some park units specific boundary adjustment authority, others must rely on the limited generic authority in the Land and Water Conservation Fund Act of 1965. For those park units, and for units established prior to January 1, 1965, Title I of H.R. 2067 will provide needed expansion of that authority. We, therefore, support Title I with the clarifying amendment previously discussed.

Title II, Authorization for Certain Park Facilities to be Located Outside of the National Park System.

Title II of H.R. 2067 would amend Section 4 of what is commonly known as the National Park Service's General Authorities Act. It would authorize the Secretary of the Interior to establish facilities essential for park administration, visitor use, and park employee housing outside the boundaries of the National Park System. In order to establish these facilities, the Secretary would be authorized to enter into a variety of arrangements and to lease or acquire property other than federal land.

We support Title II of H.R. 2067. Title II would allow NPS to lease land outside, but in the vicinity of, park boundaries for the development of needed visitor facilities and employee housing. Such development may be completed by the National Park Service or by a developer pursuant to agreement. This ability to establish facilities outside park boundaries will enhance resource

protection by reducing further intrusive development within park boundaries. This authority also takes the NPS out of the position of always having to be the developer of capital projects within units of the National Park System. Permitting the National Park Service to lease private property outside of park boundaries for park purposes allows the land to remain in private ownership and stay on state and local tax rolls. Leasing also does not give the federal government permanent management responsibilities as does land acquisition and boundary expansions that increase park acreage. We believe having the authority to enter into leases outside park boundaries makes good management sense and provides the Service flexibility to respond to changes that may occur over time. For these reasons we support Title II of H.R. 2067.

As you are aware, the National Park Service has submitted draft legislation that includes language similar to Title II of H. R. 2067. That draft legislation also addresses the issue of leasing property within park boundaries. We recommend that Title II be expanded to provide the National Park Service the authority to lease property within park boundaries, provided the leases are consistent with park purposes. Current authority only allows for leasing of property listed on the National Register of Historic Places through Section 111 of the National Preservation Act. The expanded authority we are recommending would allow the Service to lease park buildings that are not needed to administer the park and would provide a stream of revenue to take care of non-historic properties managed by the National Park Service. We feel this is an important authority and recommend that the committee add another section to Title II to permit this activity. We will be happy to provide the committee additional language to address this issue.

H.R. 2025, SECTIONS 2(K), 4, AND 6:

AMENDMENTS TO THE LAND AND WATER CONSERVATION ACT.

The primary purpose of H.R. 2025 is to amend the Land and Water Conservation Fund Act with regard to admission and user fees. When the National Park Service testified before the subcommittee in August of this year the discussion concentrated on those areas. H.R. 2025 addresses other areas of concern and we are pleased to discuss those with the committee today. We strongly support the adoption of these three sections of H.R. 2025.

Section 2(k).

Section 2(k) of H.R. 2025 would amend Section 4 of the Land and Water Conservation Fund Act by adding a new paragraph titled "Fees for Commercial Non-recreational Uses." This new paragraph would give the Secretary of the Interior the authority to establish reasonable fees for non-recurring commercial or non-recreational uses of National Park System units that require special arrangements, including permits. Current authority only permits the Secretary to recover the costs of providing services to commercial and non-recreational users of parks through the issuance of special use permits. This new authority would allow the Secretary to establish a fee that covers not only the cost of providing services to those using the park or park facilities but also considers the long-term and ongoing costs of resource protection and maintenance for areas used by permittees.

Non-recurring commercial and non-recreational uses of park units range from individuals

requesting the use of a park area for a wedding, to private group meetings in park buildings, to special events at park sites, to commercial filming for product promotion, modeling, and feature and full-length films. The preserved and protected natural resources, historic gardens and buildings, and other facilities and resources found in the National Park System attract individuals, organizations and companies to the national parks to undertake their particular activity or event. The National Park Service's costs for protecting, preserving and maintaining these resources is on-going and is far greater than the costs associated with law enforcement, maintenance or other services required at the time the particular activity occurs.

The authority would allow the National Park Service to establish fees, for specific activities that are compatible uses in the national parks, higher than the cost of providing services for the activity. It would allow the National Park Service to establish fees comparable to those charged by other public and private entities for similar activities. It would allow the National Park Service to charge fair market fees for non-recurring commercial and non-recreational uses of park resources and use the revenue for reinvestment and maintenance of the National Park System.

Section 4.

Section 4 of H.R. 2025 provides a permanent authorization to the National Park Service to enter into challenge cost-share agreements with cooperators to carry out authorized functions and responsibilities of the National Park Service. It also allows the National Park Service to utilize any funds available to it to enter into challenge cost-share agreements.

The Challenge Cost-Share Program was first authorized in the National Park Service Appropriation for fiscal year 1993. The program allows the National Park Service to enter into agreements with organizations, governments and individuals outside the National Park Service to undertake projects related to the National Park Service's mission. The National Park Service is authorized to provide up to 50% of the project costs with the partner providing the match. Challenge cost-share projects cover a wide range of activities and have included trail maintenance and construction, interpretive display design and construction, development and application of computer software and programs for resource management, planting of trees, installation of fencing, and other landscape work, development of site plans, and writing of program curriculum for "Parks as Classrooms" activities.

Challenge cost-share projects involve groups and individuals who have an expertise, interest and desire to work with the National Park Service to assist in carrying out the Service's mission. Many of the groups involved are local service organizations near a park; State and local agencies have also participated. The goal is to extend the limited financial resources available to the National Park Service to accomplish its mission through cost-effective means and partnerships. Cost-share projects increase awareness and participation by neighboring communities and the public in the preservation and improvement of National Park Service's cultural, natural and recreational resources and programs.

Section 4 of H.R. 2025 would provide the National Park Service permanent authority for the Challenge Cost-Share Program which is currently renewed annually in appropriations. It would

permit any funds available to the National Park Service through appropriations to be utilized for challenge cost-share programs thus allowing greater flexibility and resulting in challenge cost-share projects Service-wide including maintenance and administrative type projects. Section 4 would provide the National Park Service with authorities comparable to those of other land managing agencies where challenge-cost-share programs are successfully utilized on a widespread basis.

A permanent, broader authority for a challenge cost-share program provides the National Park Service greater flexibility to carry out its mission and mandates. It allows the National Park Service to enter into partnerships at all levels of the organization to utilize outside expertise and resources to accomplish National Park Service responsibilities. It results in incredible returns to the National Park Service. The FY 1993 challenge cost-share appropriation of approximately $2 million resulted in a non-federal match of approximately $4 million. The completed projects were extensive and included hundreds of people across the country taking an active role as partners with the National Park Service in caring for the resources entrusted to the National Park Service.

Section 6.

Section 6 of H.R. 2025 would amend Public Law 101-337 to allow the National Park Service to recover the costs of repairing any 'park system resource' that has been damaged. Current authority only permits the recovery of costs associated with the damage of marine resources. When non-marine resources are damaged the court system has authority to assess individuals for the cost to repair damages; however, receipts for damages do not come back to the National Park

Service, they are deposited in the general fund of the U.S. treasury. Receipts from fines would continue to be deposited in the treasury. Expanding the existing authority to cover all park system resources located within the boundaries of a unit of the National Park System that are Federally owned would allow the National Park Service to recover costs for damage repair through a court process and allow restitution to go directly to the National Park Service for repair of damages rather than to the general treasury.

H.R. 2465,

TO REQUIRE SENATE CONFIRMATION AND ESTABLISH A FIVE-YEAR TERM FOR THE DIRECTOR OF THE NATIONAL PARK SERVICE.

The third bill, H.R. 2465, establishes five-year terms for, and requires the advice and consent of the Senate in the appointment of the Director of the National Park Service. In addition to requiring that the Director of the National Park Service be appointed by the President and confirmed by the Senate, this bill also states the Director must have substantial experience and demonstrated competence in Federal park management and natural or cultural resource conservation.

The Director of the National Park Service is responsible for administering more than 80 million acres in 369 units of the National Park System. The Director also administers matching grant programs for State and local historic preservation, park planning, acquisition, and development.

We do not oppose the concept of requiring appointment by the President and confirmation by the Senate for the Director of the National Park Service as proposed by this legislation. We do, however, strongly oppose the provision that would impose a five-year term on the Director. Such arbitrary term limits are not imposed on other Presidential appointees in the Federal land management agencies and we do not believe such a restriction is necessary or constructive for the Director of the National Park Service.

Additionally, we strongly oppose the provision that would allow the removal of a director by the President only for cause. We believe it is important that all members of the President's Administration be able to work together to advance the Administration's program. As a result, the Director of the NPS should serve at the pleasure of the President. The bill's removal restriction could impede the President's ability to discharge his constitutional duty to ensure that the laws are faithfully executed.

We also have concerns about the qualifications H.R. 2465 establishes for the position of Director of the National Park Service. We believe the qualifications listed in the bill are too restrictive. The stringent requirements of having a director with "substantial experience and demonstrated competence in Federal park management and natural or cultural resource conservation" would unduly limit the President's ability to choose the best person for the position. As you know, a bill introduced in the House of Representatives in the 103rd Congress also required that the Director of the Park Service be confirmed by the Senate. The qualifications for the Director of the Park Service prescribed by that bill, H.R. 1893, were as follows: "The director shall have substantial

experience in park management and natural or cultural resource conservation." We believe this language is preferable to the qualifications required in H.R. 2465 because it would ensure that only highly qualified individuals would be eligible for the position, but would not be unduly restrictive.

This concludes my prepared testimony. We would welcome the opportunity to work with members of the Committee on our recommended changes to these bills. At this time, I will be pleased to respond to any questions you may have.

TESTIMONY BEFORE THE HOUSE SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND LANDS
ON HR2465, THE "NATIONAL PARK SERVICE PROFESSIONALIZATION ACT"
BY R. MAX PETERSON, EXECUTIVE VICE PRESIDENT
INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES
OCTOBER 26, 1995

Thank you, Mr. Chairman, for the opportunity to share my perspectives with you on HR2465, the National Park Service Professionalization Act, and, in general, on the subject of career-service professionals in Federal agency leadership positions. As you may be aware from my 37½ years in federal civil service, including 7½ years as Chief of the Forest Service, and the perspectives I have gained since my retirement about personnel practices in the state and private sector, I have a longstanding interest in both the key role a professional agency head plays in carrying out the agency's mission, and in his or her ability to perform in a way that satisfies people's expectations, both subordinates and superiors, and the public.

As you may also recall, Mr. Chairman, I appeared before this same subcommittee in April 1990 to discuss personnel problems and opportunities in natural resource agencies. I include a copy of my April 1990 statement before the subcommittee with my testimony today and would highlight one statement that I made in there that is, I believe, still very germane to today's subject of discussion. I said in April 1990 that "the increasing tendency to make political appointments within natural resource agencies has not served the American people well." I repeat that today for two reasons. First, I believe that it is still a relevant observation. And, second, it demonstrates that this is a problem that crosses several Administrations, and is not unique to this one.

I will now share some general observations with you before turning to specifics of HR2465.

1. Heads of Federal natural resource agencies typically have responsibilities that are not only nationwide, but worldwide. Satisfaction of treaty obligations, facilitation of assistance to developing countries in building sustainable natural resource programs, administration of the conduct of research, coordination of trans-boundary programs and other obligations of the agency's mission all reach beyond the borders of this nation. The individual chosen for the leadership position in the agency should therefore possess not only substantial educational background and level of experience and understanding in the disciplines represented by his/her agency mission, but needs a comparable level of understanding and appreciation of the workings of the agency and the capabilities of its people. More frequently than not, career professionals in an agency possess this necessary mix of skills and talents that is so critical for success in not just the national, but also international arena.

2. As an historical observation, only one President since President Eisenhower has served two full-terms. Therefore, it has been the rule (rather than the exception) that Federal agency heads have turned over as frequently a every four years. This turnover creates great instability in programs, policies and budgets of federal natural resource agencies which typically must have a long-term focus. Although virtually every facet of our lives is being driven by

shorter deadlines, turnaround times, and demand for quicker response/instant gratification, we must not lose sight of the fact that responsible stewardship of our natural resources requires a long-term perspective that crosses not only generations but, in many cases, centuries. Federal agencies responsible for the conservation of fish and wildlife, public lands and other natural resources must ensure that their programs and policies address the perpetuity of these resources beyond the tenure of agency heads. Professional career-service agency heads are more likely to have the appreciation for their agency's role in this and sensitivity to a long-term perspective than a political appointee.

3. I have observed an increasing tendency to add people at the Department and Under Secretary level in natural resources agencies, and to pull responsibility upward rather than delegate it downward. This trend more often, it appears, results in these appointees spending more time trying to discern what the latest "Washington" thinking or spin on policy is, rather than focusing on meeting the agency mission on the ground of managing the natural resources under its jurisdiction for the benefit of the citizens of this Nation. I believe that career-service agency heads are more likely to retain their fidelity to meeting on the ground objectives rather than trying to figure the latest "Washington" policy nuance.

4. Agency heads are under increasing attention and pressure from "special interest" organizations that have an interest in the management of public lands. Their modus operandi is more often to seek resolution in Congress or the courts, rather than trying to satisfactorily reconcile differences/solve problems at the local level. Agency heads who come from career-service ranks with experience in solving problems at the local level I believe will have more of a tendency to delegate most solutions to that level rather than elevate those decisions to higher levels within the Administration, the Congress or the courts. As you know, most "real" solutions are found at the local level as a result of active involvement of all stakeholders.

5. Finally, as is somewhat self-evident, a political appointee is generally more susceptible than a career-service professional to political pressure at the national or local level. Successfully dealing with that pressure is obviously part of an agency head's job, but I believe a career-service individual's grounding in the agency better positions him or her to address this pressure. Obviously the focus should be on serving the entire public rather than those who can exert the most political influence.

Turning specifically to HR2465, Mr. Chairman, I have a longstanding interest in the qualifications and management skills of people who head federal natural resource agencies. I would stress the need for successful management skills equally as much as their professional education and experience since placing individuals in agency leadership positions with little or no managerial background is simply asking for trouble. While generally speaking, I believe that agency heads should come from career-service ranks, as suggested by HR2465, I don't discount the fact that equally qualified candidates may exist outside of career-service. Simultaneous consideration of candidates from both ranks by the President is probably the most desirable scenario.

HR2465 provides for a term of five years with opportunity for reappointment for an additional three years. Let me suggest that particularly in the arena of natural resource management, where a long-perspective is so vital, that a one time appointment of between 7-10 years may better provide the stability so necessary to shepherd a federal natural resource agency's agenda. This would also provide insulation from political changes in Administrations every four years. A variation of that theme would be a seven year term with an extension of three years being permitted. There is a fair universe of professional management literature to suggest that 7-10 years gives an agency head (or CEO) the stability to build and carry out a credible and successful program somewhat insulated from political pressures or turnover, but is not so long that it thwarts or constrains new, fresh and creative thinking that organizations and agencies routinely need to revitalize themselves.

Thank you for the opportunity to share my perspectives with you, Mr. Chairman, and I would be pleased to address questions.

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International Association of Fish and Wildlife Agencies

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444 North Capitol St. NW, Suite 534, Washington, DC 20001 (202) 624-7890
R. Max Peterson, Executive Vice President

TESTIMONY BEFORE THE
HOUSE NATIONAL PARKS AND PUBLIC LANDS SUBCOMMITTEE OF THE HOUSE
INTERIOR AND INSULAR AFFAIRS COMMITTEE AND THE SUBCOMMITTEE
ON THE CIVIL SERVICE OF THE HOUSE POST OFFICE
AND CIVIL SERVICE COMMITTEE
by R. Max Peterson, Executive Vice President
International Association of Fish and Wildlife Agencies
April 5, 1990

Mr. Chairman, I appreciate the opportunity to be here today to contribute to the dialogue about personnel problems and opportunities in natural resource agencies. In doing so, I look back over 37 1/2 years in the federal civil service. Since my retirement three years ago, I have gained some perspective about personnel practices in the state and private sector.

Mr. Chairman, as you know, the International Association of Fish and Wildlife Agencies, which I represent, was founded in 1902 and is a quasi-governmental organization of public agencies charged with the protection and management of North America's fish and wildlife resources. The Association's governmental members include the fish and wildlife agencies of the states, provinces, and federal governments of the U.S., Canada, and Mexico. All 50 states are members. The Association has been a key organization in promoting sound resource management and strengthening federal, state, and private cooperation in protecting and managing fish and wildlife and their habitats in the public interest.

First, let me state emphatically that, in my view, people working in natural resources today in the Federal, state and private sector are better educated and most are equally as dedicated to their task as they were when I began work in natural resources more than 40 years ago. In saying that, though, I do not mean to imply that all is well. There are a number of problems, as well as opportunities to improve the performance of natural resource agencies through improved personnel policies and practices. I firmly believe that the quality of people who work in natural resources and their dedication to that work has a strong bearing on the quality of natural resources management and therefore our long-term well being as a nation and as a world. Let me now turn to some specific problems and opportunities as I see them.

Natural resource management has become increasingly complex.

There are many reasons for this increased complexity. Some complexity results from increased recognition of the interrelationship between soil, water, air, vegetation, animals, fish, wildlife and people. Another factor is the rapidly increasing uses of our natural resources because of both increased populations and increased rates of

per capita consumption. At the same time we have experienced increased use of our natural resources, there is a strong demand to keep sizeable segments of our natural resources just as they are, preserved for enjoyment of this and future generations. Both sustained use and preservation are legitimate goals of society. The professional frequently is caught in the middle when highly organized groups clash over how to manage resources in a particular area.

This complex natural resources situation requires the interaction of many different disciplines because no one discipline can hope to encompass the entire natural resources field. Interdisciplinary analysis and interdisciplinary teams are the norm for natural resource management of today and the future.

Unfortunately, into this more complex, interdisciplinary world we launch a new college graduate. Academic training, usually in a single discipline, is likely to be very technical and research oriented. It may not provide any real training or understanding of interdisciplinary processes or the fact that people as well as the physical and biological sciences will influence resource management decisions. If you couple this with the fact that many natural resource graduates grow up in urban areas where there is limited opportunity to interact with natural resources and therefore gain firsthand experience, it is no wonder that the transition from academic life to a field assignment in natural resources can be rather traumatic.

Rather than lament the situation, it is obvious that agencies simply must realize the reality and plan accordingly. This does not mean it is not possible to improve academic training but doing so is not easy given the different and sometimes contradictory goals for training. Specific orientation and apprentice programs for employees which provide appropriate on-the-job training, coaching and mentoring are essential. Early experience in the interdisciplinary process is a necessity for successful performance. Doing this in the first few months of employment can mean the difference between productive, high performing, long-term employees or many disillusioned and resentful people who will leave the organization.

Natural resource assignments have become increasingly controversial in recent years which deters many from seeking important assignments.

It is not news to this committee that natural resource management has become increasingly controversial, particularly during the last 20 years. There are many reasons for this increase in controversy, including the increased public awareness of natural resource issues. This has caused increased political involvement into decisions which at one time were considered the domain of the professional natural resource manager. This increased political and public interest in natural resources can be constructive and beneficial. Unfortunately, the rise of single interest groups dedicated to promoting a particular resource or interest, and who use the press, the courts, the Congress and the Executive Branch to press their case, can raise what used to be a local,

professional natural resource decision to a national level controversy. Sometimes the opposing sides attack the objectivity, credibility or even the motives of those professionals responsible for the decision.

The net result of this level of controversy is that many well qualified natural resource professionals do not aspire to key natural resource jobs. A purely technical or research oriented job may seem more appealing!

I do not have many suggestions as to what to do to reduce controversy. First, I think we simply need to recognize that controversy in natural resource decision making will apparently be a fact of life for the foreseeable future. Second, I think it is important for all of us, including those at the political level in the Congress as well as the Executive Branch, to seek to find common ground for solutions to difficult natural resource problems. I believe you need to challenge those who appear before you to suggest solutions that serve all the people and not just their particular clientele. We also may have to look for ways to shield some natural resource decisions from the political level, including the Congress and maybe even from the courts, in order to be sure that scientifically appropriate decisions are made. This would mean some type of a scientific panel or a professional review board rather than a court or the Congress would be a more appropriate forum for at least making findings and recommendations on highly controversial natural resource problems.

The interface between career professionals at the top levels of a federal or state resource agency and political executives has been less than satisfactory.

Let me quickly make two points. First, I am not pointing the finger in just one direction. Both the career professional and the political executive share the responsibility for making that interface constructive and effective. A democracy by definition requires an interface between elected leaders and the career force. Second, I recognize there are many reasons for the career/political interface problem, which are spelled out in the recent Volker Commission report, so I will only touch on a few.

There is an inevitable difference in time perspective of a career professional in a natural resources agency who sees the importance of long-term trends and the need for continuity in natural resources management. The political executive likely will want to see some specific results attributable to his or her time in office. That type of tension can be constructive because it can lead to some positive things being accomplished. The reverse unfortunately happens also. The rapid turnover of political executives at the Federal level, now averaging less than two years, means that the political-career interface can be in a state of constant turmoil.

A second problem area is that a typical political executive is in his or her middle to late thirties with little or no experience or training in natural resources. Typically such political executives provide line

supervision over programs headed by career people with 20, 30 or more years of experience plus substantial academic background in natural resources. To put it mildly, this is not a recipe for obvious success!

In my view, the Assistant Secretary level is the critical level in federal agencies. People in those jobs are the key representatives of the new administration. From my observation during several federal administrations, little apparent thought is given to the education, training and experience of many people at the Assistant Secretary level supervising Federal natural resource programs. They share one common trait -- very few have had either education or training in natural resources.

Adequate funds have not been available to fund natural resource programs and funding for salaries and training of people has been a serious problem.

Unfortunately, the proportion of the Federal budget devoted to natural resources has been cut in half in the last decade. Many state budgets have followed that trend. We certainly cannot expect to enjoy the benefits of a resource secure future if we are not willing to provide the necessary funding.

Most people I know embarked on natural resource careers, not because they expected to become rich, but because they were attracted to the type of work involved and were dedicated to the future of natural resources. There is certainly continuing evidence that those reasons still prevail for people now entering natural resource careers. In spite of that general motivation, there are some substantial problem areas. First, there are some extremely high cost areas around the country such as some metropolitan areas and resorts where the cost of living is simply not within reason, particularly for lower level professional, technician and clerical employees. Some type of locality pay seems like the only reasonable solution to that problem. Unless this is done, we will continue to see high and costly turnover as well as inability to recruit qualified people for such locations.

The second part of this problem area is the tendency in recent years at both the Federal and state level to retroactively rewrite salary or benefit rules to the disadvantage of long-term employees. This apparent breach of faith has adverse consequences, not only for those directly affected, but spills over to younger employees and even to those who are considering a Federal or state natural resource career. Let me mention just a couple. In the 1986 Federal Tax Reform Act, the only retroactive provision was one that changed the tax treatment for federal employees' contribution to their retirement plan. The second change was the decision to unilaterally make federal employees medicare eligible and therefore subject to a large medicare tax, even though the coverage was not needed by retirees. Third, in recent years the principle of comparability between public and private sector jobs has simply been abandoned and less than cost of living allowances have been the rule.

Successful performance at upper levels requires broad experience and training while opportunities to provide that background are more difficult.

Agency and personal costs of transfers has dramatically increased. A typical transfer costs $40,000. The typical two-career family has increased the personal cost of moves and makes the move more difficult for all concerned. It is therefore obvious that agencies will have to meet future training needs with fewer transfers. In some cases temporary assignments, details or cross training at the same location can be used to reduce transfers. There is no substitute for a variety of job assignments. The reality of the two-career family simply must be addressed. I believe this means assistance in job placement for the spouse, as well as some relaxation of nepotism and other personnel rules to help rather than hinder transfer of two-career families.

High quality performance during one administration can become a liability when the administration changes.

High performing people may actually be suspect with a new administration. Career professionals are expected to be responsive to the current administration. Presidents going back to Eisenhower have been critical of the lack of responsiveness by the career bureaucracy. Ironically, responsiveness to the policies of one administration may be a substantial liability in a succeeding administration. There are, of course, some practical realities. An incoming administration might be uncomfortable with a person in a key position who, in a previous administration, actively supported a position that is different from the one desired by this administration. Certainly the career professional, as well as the incoming administration, should recognize those situations and look for constructive solutions that do not simply assign the career executive to the "turkey farm" or to early retirement.

The creation of the Senior Executive Service by the Civil Service Reform Act of 1979 must, at this point, be viewed with some skepticism. As a charter member of the Senior Executive Service, I witnessed, firsthand, both the promise and the reality. To me personally, the Senior Executive Service was beneficial. I regularly received bonuses and did not experience the negatives reported by others. Even though I personally benefited from the Senior Executive Service, I reluctantly concluded that there are several things that should be examined. For example, the fixed limits on the percentage of SES members who can receive bonuses, I believe, are unduly restrictive and at times detract from the teamwork the agency must have in its top levels to perform effectively. The predominant practice of the private sector is to reward a much higher percentage at the upper level with bonuses, even though the amount of the bonus might vary considerably by individuals. In fact, the current practice in private industry appears to be that if a manager or executive does not get a bonus, he or she should be looking for another job.

A second problem in the Senior Executive Service is the creation of a rankless system where all senior executive jobs are seen as equal. Although theoretically patterned after the military with the rank-in-person concept, in practice the Senior Executive Service works just the opposite. There is no differentiation. To be similar to the military would require jobs to be classified at a particular grade with the ability to assign a person one level above or one level below that grade to the position.

A cardinal theory when the Senior Executive Service was created was the concept that the senior executive would be better rewarded and in return would have somewhat less job security. In practice the compression in upper level salaries has meant that the senior executive receives less job security but not really increased pay. The recent approved increase in SES salaries, although deserved, has created another significant problem. Most senior executives simply cannot afford to retire short of the three years service at the higher level salary. This is already affecting retirements and will likely create a significant hiatus in the upward movement of people within the federal system. A way to address this problem at reasonable cost might be to base retirement salaries on the salary that would have been received without the salary compression. This would apply to all of those who had an asterisk beside their salary level in salary tables. I recognize that to do so would take a change in the law but would be a way to deal with the situation at reasonable cost. It might, in fact, save money if the cost of stagnation could be computed.

There is a clear need to simplify, streamline and make more understandable the personnel policies and practices that apply to personnel management.

Since the bulk of my experience has been in the federal sector, let me direct my comments to that level. I believe the principles will apply to others.

Unfortunately, during my career I saw the personnel laws, regulations and manuals expand to the point where only personnel specialists could even keep up with them, let alone understand the ramifications. At one point the Forest Service had one personnelist for each 60 employees. Enormous amounts of time were spent in such non-productive tasks as writing, rewriting, classifying and reclassifying temporary employees. Professional personnel people were as frustrated as anyone else by the need to determine the rule that applied rather than what made sense.

It might be a real challenge if there was a real life project to throw out all of the personnel direction except a few basic laws which include principles that a manager or executive is expected to follow. We might be generous and say that up to 100 pages can be used to provide this direction if necessary! The net result would certainly be personnel policies that would be read by employees, managers and executives and it would do much to "demystify" present practices.

Major improvements in the functions of natural resource agencies would result from a major reduction in paperwork and procedural requirements, including a reduction in control functions by higher levels of management including the Congress.

There seems to be an insatiable appetite by higher levels of management to continue to manage the details of subordinate parts of the organization. The proliferation of single purpose organizations which I mentioned earlier and the information explosion has increased the tendency and opportunity for higher levels to tighten the "control noose" to the point where on-the-ground resource people spent an inordinate amount of their time reporting, justifying and completing various process requirements.

In 1985 the Forest Service undertook a "pilot program" to deliberately give additional responsibility and authority to selected field units, including more control over how funds were spent. One of the reasons we did this on a pilot basis was that we simply could not secure broader approval. Lest you think I am pointing the finger upward only, let me point out that our experience indicated that many of the constraints had been placed by the Forest Service itself and sometimes by local and regional offices. Others were in rules of higher levels such as the Department, OMB, OPM, GSA or by the Congress. Those pilot efforts proved conclusively that if you give subordinate units more freedom, they will find many innovative ways to improve productivity and resulting public service. To make this work, though, Congress will have to be a partner and will have to be willing to exercise less control and micromanagement over agency activities. This does not necessarily mean less oversight. It might mean increased oversight including field visitations by the committee.

The increasing tendency to make political appointments within natural resource agencies has not served the American people well.

I expect the committee would be surprised if I did not address the subject of political appointees within natural resource agencies. Let me make it clear, though, that I am not talking about a particular administration or a particular political party. The trend to appoint political agency heads and even other executives and managers below the agency head has been in my view an unfortunate trend over the last 20 years. When I began work for the Forest Service, all of the major Federal and state natural resource agencies were headed by career professionals. At the Federal level that included the Forest Service, Soil Conservation Service, National Park Service, Bureau of Land Management, Fish and Wildlife Service, U.S. Geological Survey and Agricultural Research Service. Today only the Forest Service has been consistently headed by a career professional. At the state level, the situation is mixed but career professional positions such as the director of fish and game or the state forester may or may not be a professional today.

I cannot, of course, claim complete objectivity on this subject! Let me at least make a few points I consider significant in any rational examination of the question.

There is obviously a need for a career professional/political executive interface in public agencies. At the Federal level, I believe it can be demonstrated that the most constructive interface has been built over time if the agency has unquestioned professional orientation and expertise but responsive to the electorate through politically appointed executives. The agency then is a dependable servant of all the people and not an advocate for a particular political party or administration.

Political appointments of agency heads and immediate subordinate levels inevitably leads to political appointments throughout the organization. This can be demonstrated as being the net result over time. The net result is confusion, personnel reluctant to make tough decisions because of potential political repercussions, and an opening of the agency policies and procedures to political manipulation.

We are increasingly recognizing the importance of agency culture to its long-term performance. The culture or accepted norm in natural resource organizations for many years was that those who performed well could aspire to any job in the organization including the top ones. Even though few people will reach that level, the possibility remains a positive force.

It is tough to make difficult natural resource decisions if you are unsure of whether you will receive backing. As stated earlier in my testimony, numerous natural resource decisions are complex and controversial. The person making the decision needs to have a commitment to the best decision in the public interest, not the decision that will be politically popular or will be sustained by someone whose primary concern is the political ramifications.

The long-term credibility of decisions made in a natural resource agency is important to all those concerned with sustainable long-term natural resource management. Experiences indicate that the public's acceptance of decisions can be significantly undermined if those making the decision are unqualified or demonstrate primary allegiance to politics rather than resource management.

I have deliberately tried to address this question without reference to examples or to a particular administration. In my view this is a generic question and does not relate to a particular administration.

To make the record complete, I should indicate that I do not favor such arrangements as making agency heads directly responsible to the President or some other exotic arrangement which, in the long pull, may be counterproductive. It should be obvious to all that no President can supervise all the people and organizations that currently report to him.

In the real world making an agency head report direct to the President would mean some staffer in the White House would draw the supervisory responsibility. I think it is far preferable to keep that responsibility with a cabinet officer.

As a positive step, I would suggest consideration be given to (1) establishing stronger qualifications for top executives in natural resource agencies and (2) providing for single term appointments of, say 7 years, for agency heads. As you will recall, the head of the FBI has a 10 year term appointment.

Natural resource agencies must in the future deal with a much diversified workforce in terms of disciplines, races, sex and national origin.

I have seen a considerable amount of handwringing and apprehension about projections which show a dramatic change in the future workforce. There are, without doubt, some significant problems and opportunities ahead.

Let me first talk about some of the opportunities. I believe a diversified workforce much more representative of our society by race, culture, sex and national origin is something we should welcome. I have suggested early retirement to some who had great problems with this pending change. It will, in fact, happen. The real question is how do we get from here to there in a way that is constructive and reasonably equitable to all concerned.

There is a long list of real life reasons why natural resource agencies have been slow in attracting, recruiting and retaining women and minorities, for example, in adequate numbers to make more rapid changes in statistics. Reduction in the total workforce of natural resource agencies during the last decade has substantially aggravated the problem.

Let me further state that I firmly believe in progress, not excuses. The real question is how much progress and at what price? I would favor an honest commitment to setting 5 or 10 year goals for sustained progress and I would even favor providing some additional tools to managers to make such progress. The first opportunity for progress would be existing employees who, with some training and some relaxation of qualifications, standards and entry levels, could move up. In many organizations minorities and women may be present in adequate numbers but concentrated at lower grades. An aggressive program to identify and train those educationally disadvantageous but capable employees would be an excellent investment. In the market for college trained people and for promotions, almost every agency is looking for qualified women and minorities but theoretically are pursuing equality of employment. The obvious tilt towards women and minorities has made many people resentful and disillusioned. It has made highly capable women and minorities feel that their employment or well deserved promotion has been discounted or diluted by a perception that it was gained because of favoritism rather than merit.

I am always in favor of being above board and honest in such situations. Let us search for solutions recognizing that a diversified workforce is a desirable goal but it will take some time to get there. If necessary, maybe assign preference points just like we did for veterans? At least people would understand the rules of the game.

Let me end my presentation by listing a few things which I believe are important if natural resource agencies are to attract, develop and retain top quality people.

1. Provide an organizational culture where professionalism, confidence, public service, integrity and mutual respect are nurtured and recognized.

2. Give people an opportunity to meaningfully participate in natural resource decisions. Ideally this should extend from the top to the bottom of the organization.

3. Encourage innovation, new ideas and new approaches to old problems. Encourage delegation of resource decisions to the lowest practical level where the realities of the on-the-ground resource situation can be envisioned. Avoid second guessing those decisions or higher levels.

4. Recognize contributions of both individuals and teams who perform well. Both monetary and non-monetary award systems need to be kept simple and delegated so that recognition can be readily related in a timely way to performance.

5. Seek out, encourage and counsel those who demonstrate leadership capability to prepare to move up to higher levels of responsibility. Ironically it is not necessarily those who have the greatest capability who seek to move up. In fact, it may be the person who is fully challenged and occupied by the present job and who is doing outstanding work who will be reluctant to move on.

6. Interchange people between headquarters and field levels to improve teamwork and current understanding of resource issues. Quite candidly, if it is possible to move directly to highly sought-after jobs in the field without going through upper level regional or headquarters assignments, many will adopt that strategy. The net result is that upper levels are deprived of the service of some of its best people and headquarters will become more and more insulated from the reality of the field resource situation.

7. Expect and demand integrity, responsiveness and high quality performance. Poor performance that is not dealt with becomes corrosive to the agency and sets a new norm of mediocrity. I include in this category the need to deal with unethical, illegal or other performance that is not up to reasonable standards. Unfortunately, the safeguards that have been put in place over the last 20 years to protect employees have been used by both managers and employees as an excuse not to deal

with poor performance. I believe the case can be made for much simpler procedures to withhold within grade increases, and to suspend or reassign people who have clearly not performed and to remove those who do not respond to counseling.

8. Rethink procedures for selecting managers and executives to include peer and possibly subordinate ratings. Such systems have been used for a long time in research evaluation. Herbert Kaufman in his classic book on the forest ranger pointed out that peer and subordinate review can reflect quite accurately the performance of a manager. The current system of evaluation of managers and executives relies heavily on the perception of higher level supervisors who may be separated geographically. I am aware of at least some situations where a person managed to look good to a higher level supervisor while violating most of the basic principles for management of the group that he or she was responsible for.

9. The current reward systems for natural resource people is in need of updating to reflect the current workforce and management situation. I believe there is increasing recognition that a manager or executive should be evaluated based on the performance of the entire group rather than the individual perceived performance by the manager or executive. The manager or executive establishes the culture of the part of the organization for which he or she is responsible. The ability to establish and maintain a productive culture that utilizes the best talents of the entire team in most cases is more important than how smart or talented the manager may be. There is increasing recognition in medicine and science and even in manufacturing that rewarding group performance tends to build an esprit de corps and teamwork which increases the productivity of a group.

Let me, in closing, reemphasize my opening comment. People entering natural resource careers today are better educated than they were 40 years ago when I began work. Natural resource professions today are more complicated, there is more controversy and there is less respect for the professional who is dedicated to the long-term resource situation. The degree to which we attract, retain and utilize the skills of high quality people in natural resources will, to a large degree, determine our own resource future.

Thank you, Mr. Chairman for this opportunity to share ideas with the committee. I will be happy to respond to questions you may have.

U.S. Department of the Interior
Office of Inspector General

Testimony of Wilma A. Lewis, Inspector General, on the Audit of Special Use Fees, National Park Service, and on H.R. 2025, Proposed Amendments to the Land and Water Conservation Fund Act of 1965

Before the
Subcommittee on
National Parks, Forests, and Lands,
Committee on Resources,
U.S. House of Representatives

October 26, 1995

I am pleased to be here today to comment on a proposed Amendment to Section 4 of the Land and Water Conservation Fund Act of 1965 contained in H.R. 2025. I have been asked to provide testimony on the portion of the proposed legislation that would permit the National Park Service to collect and retain fees for nonrecurring commercial or nonrecreational uses of Park System units. The views that I will express are based principally on the results of audits conducted by the Office of Inspector General that address the establishment, collection, and accounting for fees by the National Park Service in analogous contexts.

In February of this year, the Chairman of this Subcommittee requested a review by the Office of Inspector General of the Park Service's implementation of its authority under the fiscal year 1994 Appropriations Act to recover and retain costs for special use activities. The Subcommittee requested that we review how this authority was implemented at five parks (Grand Canyon National Park, Yellowstone National Park, Canyonlands National Park, Santa Monica Mountains National Recreation Area, and Yosemite National Park); the basis used at each park for establishing permit fee levels; how each park accounted for the revenues generated; and how the revenues were expended, including whether they were expended in support of the purposes for which they were collected. We expanded the scope of our review to include eight additional parks (Assateague Island National Seashore, Delaware Water Gap National Recreation Area, Gateway National Recreation Area, Golden Gate National Recreation Area, Lake Mead National Recreation Area, Point Reyes National Seashore, Statue of Liberty National Monument, and Zion National Park), which we selected based on the reported revenues for special use fees for fiscal year 1994. These 13 parks reported about $2 million in special use fees for fiscal year 1994, which accounted for about 53 percent of the approximately $3.8 million of special use fees reported by the Park Service for that year.

Based on our audit, we concluded that the Park Service did not implement its authority to collect and retain fees for special park uses in a consistent manner. There were inconsistencies among the parks regarding: (1) the types of activities that were subject to a fee; (2) the bases for determining the amount of the fee; and (3) the use of fee revenues. In addition, we identified deficiencies in the controls for collecting and/or accounting for fee revenues at 4 of the 13 parks we reviewed. Accordingly, there was no assurance that the appropriate amount of fees was being collected.

We believe that these types of problems, which also were identified in prior audits, stem principally from the absence of clear and specific guidance by the Park Service in these areas. Such guidance (which the Park Service is in the process of developing through revisions to its internal guidelines), reliable accounting systems, and effective program oversight are critical to the successful implementation of a fee and cost recovery program such as the one contained in H.R. 2025.

H.R. 2025 - The proposed amendment to Section 4 of the Land and Water Conservation Fund Act, on which we were asked to comment, would add the following new section 4(o):

> (o) Fees for Commercial Nonrecreational Uses. - Utilizing the criteria established in section 4(d) (16 U.S.C. 460l-6a(d)), the Secretary of the Interior shall establish reasonable fees for non-recurring commercial or non-recreational uses of National Park System units that require special arrangements, including permits. At a minimum, such fees will cover all costs of providing necessary services associated with such use, except that at the Secretary's discretion, the Secretary may waive or reduce such fees in the case of any organization using an area within the National Park System for activities which further the goals of the National Park Service. Receipts from such fees may be retained at the park unit in which the use takes place, and remain available, without further appropriation, to cover the cost of providing such services. The portion of such fee which exceeds the cost of providing necessary services associated with such use shall be deposited into the National Park Renewal Fund.

Our concerns with this provision are best illustrated by the problems identified in our audit on special use fees. Accordingly, I will highlight some of the problems cited in our audit report and offer suggestions designed to prevent or limit similar occurrences under the fee program contained in the proposed legislation.

Types of Activities Subject to Fees - The 1994 and earlier Appropriations Acts, which authorized the recovery and retention of special use fees, did not describe the types of activities subject to such fees. This approach left the Park Service responsibile for identifying those particular activities that fit within the scope of the general description set forth in the legislation. In the absence of specific guidance from the Park Service, however, individual park units were left to their own discretion to identify those activities for which fees would be charged. This resulted in differing interpretations among the parks. For example:

- Six parks issued permits for backcountry camping, but only Canyonlands National Park collected fees for reservations and issuance of the permits, which totaled $63,530 in fiscal year 1994.

- Gateway National Recreation Area issued 3,621 parking permits for fishing that allowed access to off-road and other areas where public access is normally restricted. It did not collect any fees for this special use. In similar circumstances, Assateague Island charged a $40 annual fee for off-road access and collected $209,440 in fiscal year 1994.

We see the potential for this same type of inconsistency in the proposed legislation for fees for commercial or nonrecreational uses. The ability of the park units to retain funds to cover the costs of providing services associated with such uses likely will result in the identification of numerous potential fee situations. To ensure consistency among the various park units, while allowing for the necessary flexibility to accommodate different activities among the

parks, the Park Service should be required to identify the major commercial or nonrecreational activities for which fees would be charged, and to provide sufficiently specific guidance to permit individual park units to apply the guidance to related activities not identified by the Park Service.

Furthermore, the proposed legislation itself requires clarification in that the heading of Section 4(o) refers to fees for commercial nonrecreational uses while the body of the Section refers to fees for commercial or nonrecreational uses. Commercial uses that are also recreational would qualify under the latter description, but not under the former.

Establishing Fees - The proposed legislation identifies the criteria in Section 4(d) of the Land and Water Conservation Act as the bases upon which the Secretary of the Interior is charged with establishing reasonable fees. Section 4(d), with its proposed amendment, provides:

> All fees established pursuant to this section shall be fair and equitable, taking into consideration the direct and indirect cost to the Government, the benefits to the recipient, the public policy or interest served, the comparable fees charged by other public and private entities, the economic and administrative feasibility of fee collection and other pertinent factors . . . .
>
> It is the intent of this part that comparable fees should be charged by the several Federal agencies for comparable services and facilities.

In the context of special use fees, we found that the parks varied considerably in the methods they used to establish fees. Specifically, 5 parks (Grand Canyon National Park, Santa Monica Mountains National Recreation Area, Yosemite National Park, Statue of Liberty National Monument, and Zion National Park) used cost data; 3 parks (Assateague Island National Seashore, Gateway National Recreation Area, and Yellowstone National Park) used comparability studies; 3 parks (Delaware Water Gap National Recreation Area, Lake Mead National Recreation Area, and Point Reyes National Seashore) used appraisals; and 2 parks (Canyonlands National Park and Golden Gate National Recreation Area) used the "collective judgment and experience" of their personnel.

In addition, fees varied among the parks, and were not always set at the appropriate level or adequately supported, given the method selected by the park unit. For example:

- Golden Gate collected daily location use fees for commercial filming and accepted donations ranging from $50 to $6,600 based on the specific filming location; three parks charged a daily monitoring fee of $300; six parks charged actual monitoring costs; and three parks did not charge a fee.

- Assateague Island considered the annual rates charged by the States of Delaware ($50) and New Jersey ($100) in establishing its off-road vehicle permit fee of $40. Yellowstone performed a comparability study of the fishing license fees charged by surrounding states before it established its fishing permit fees. However, Yellowstone collected $5 for a 7-day permit and $10 for an annual permit, whereas the comparables ranged from $13 to $24 for an annual fishing license. Neither park could support the basis for setting the fees at rates lower than those at comparable locations.

- Grand Canyon, Santa Monica Mountains, Yosemite, Statue of Liberty, and Zion charged fees that were designed to recover the direct costs of personal services, utilities, waste management, administrative activities, and management reviews that were associated with the special uses. However, the parks did not have adequate support for how they computed the fees and did not include indirect costs for program direction and administrative support.

Based on findings of this nature, we concluded that existing Park Service guidance did not provide sufficient direction to assist employees at individual park units in determining when to use the cost or market approach in establishing the special use fees, the types of costs to include in the calculation of fees, or the documentation necessary to support fee determinations. This conclusion was very similar to one reached in a November 1988 audit report entitled "User Charges and Collections, National Park Service" (No. 89-22), where we also found that the Park Service's user fee program suffered from insufficient Servicewide guidance and oversight, including a lack of guidance on fee determination and cost finding techniques. Further, in an analogous context, we found similar problems. In our September 1994 audit report entitled "Concessions Management, National Park Service" (No. 94-I-1211), we concluded that the Park Service needed to develop and implement consistent policies and procedures to ensure that the Federal Government was receiving fair value for concessions.

In the absence of sufficient guidance from the Park Service, the proposed legislation could result in the same types of problems in the determination of fees for commercial or nonrecreational uses. Indeed, a prominent feature of the amendment at issue is that it requires that fees, at a minimum, cover all costs of providing necessary services associated with the uses, unless otherwise waived by the Secretary of the Interior. Office of Management and Budget Circular A-25, "User Fees," provides guidance for Federal agencies to use in determining full cost and market prices for fee situations. The Department of the Interior provides additional Departmental cost recovery policy and guidelines to assist its bureaus and offices in identifying various elements of direct and indirect costs. However, in order to ensure that the costs for commercial or nonrecreational uses are recovered in a consistent manner among the various park units, the Park Service would need to provide detailed guidance through an update of its own internal manual. Moreover, the variety and nature of the factors that can be taken into account in establishing fees under Section 4(d) would seem to make the need for Servicewide guidance even more critical.

Collecting and Accounting for Fees - Regarding internal control procedures for collecting and accounting for revenues generated from special use permits, 9 of the 13 parks that we reviewed for our audit of special use fees had implemented adequate controls. The nine parks deposited the receipts into special accounts established for special use revenues and used either prenumbered or sequentially numbered receipts or bills for collection to ensure that all funds were accounted for. Deficiencies identified at the remaining four parks included: not ensuring that all special use fees were paid; not ensuring that permit fees were actually collected and deposited into the proper account; not reconciling receipts to the permits issued or to deposits; and not ensuring that receipts were deposited timely.

The U.S. Treasury has issued guidance on collecting and accounting for fees. This guidance, which the Department of the Interior has incorporated into its Manual for Financial Management, provides detailed instructions and internal control procedures for collecting, safeguarding, and depositing public funds such as entrance fees or user fees. The Departmental Manual also has incorporated guidance issued by the U.S. Treasury and the General Accounting Office on accounting for and reviewing the controls over public funds. This guidance provides detailed instructions regarding how the funds are to be recorded in the accounting records and requirements for periodic reviews of those records by management. Considering the vast amount of guidance already issued on collecting and accounting for fees, we do not believe that the Park Service needs to create any additional guidance in these areas. However, the Park Service will need to ensure that the guidance is followed by incorporating relevant portions into its own internal manual, ensuring that personnel at the individual park units receive sufficient training in the proper procedures for collecting and accounting for fees, and providing necessary program oversight.

Expending Fee Revenues - The Subcommittee requested that we determine how special use revenues were spent, including whether they were spent in support of the purposes for which they were collected. We identified inconsistencies among the parks in this regard. Of the 13 parks, 6 parks (Grand Canyon National Park, Canyonlands National Park, Gateway National Recreation Area, Golden Gate National Recreation Area, Point Reyes National Seashore, and Yosemite National Park) spent special use fee receipts to support the activity that generated the revenue. Of the remaining seven parks, Santa Monica Mountains National Recreation Area spent fee revenues from filming on any special use activity; Yellowstone National Park, Delaware Water Gap National Recreation Area, Zion National Park, Assateague Island National Seashore, and Statue of Liberty National Monument spent the revenues for general park purposes in addition to the special use activity; and Lake Mead had not spent any of the revenues collected from special use fees at the time of our review. In addition, we found that 11 of the 13 parks reviewed carried over unobligated revenues totaling $331,864 to fiscal year 1995.

We believe that the inconsistencies among the parks regarding the types of activities on which special use fees could be spent were caused by the lack of specificity in the Appropriations Acts, which do not explicitly address how special use permit revenues can be used or whether unobligated funds can be carried over to the next fiscal year. The Park Service has interpreted

this authority, based on the advice of the Office of the Solicitor, to allow the parks to use special use permit revenues for general park operations and to carry over unobligated funds to the next fiscal year.

The proposed statutory language for fees for commercial or nonrecreational uses states that receipts from such fees may be retained at the park unit in which the use takes place and that the fees remain available, without further appropriation, to cover the cost of providing such services. Fees in excess of what is necessary to cover the cost of services associated with the particular use are to be deposited into the National Park Renewal Fund to be expended as further defined in the statute. We believe that the increased specificity in the proposed legislation regarding the expenditure of fee revenues should serve to prevent the uncertainty and inconsistency in this area found in our audit of special use fees.

The proposed legislation is clear that fees must be associated with the particular commercial or nonrecreational use that generated the fee. We caution, however, that the specificity of the statute, in this respect, necessitates that the park units create a separate accounting mechanism for each commercial or nonrecreational use.

Overall Assessment - The issue of collecting fees for park uses has been the subject of several audits by our office over the years. Our May 1988 report entitled "User Fees at Three National Park Service Units" (No. 88-74) concluded that a favorable economic return could be achieved with the collection of entrance fees at Lake Mead National Recreation Area and Cape Hatteras National Seashore. In the report, we recommended that the necessary action be taken to collect entrance fees at those two parks as well as fees for off-road vehicles at Cape Hatteras. Our November 1988 audit report entitled "User Charges and Collections" (No. 89-22) and our March 1993 report entitled "Recreation Fee Charges and Collections" (No. 93-I-793) also urged increased utilization of fee recovery programs by recommending that appropriate action be taken, including through legislative relief, to expand the collection of entrance fees and fees for various special use activities.

The proposed legislation is consistent with this Office's previously expressed recommendations in analogous contexts to expand the collection of fees for various park uses. We further believe that the fee and cost recovery program can be successfully implemented provided that the Park Service continues its commitment to the development and implementation of clear guidance, reliable accounting systems, and effective program oversight.

As to guidance, we are aware from our audit of special use fees that the Park Service is in the process of revising its internal guidelines, "Special Park Uses," which were issued in 1986, to reflect more recent developments in this area. In response to our audit report, the Park Service has indicated that the revised guidelines will address and correct, in detail, each of the problem areas identified in the recommendations. By providing detailed instructions as recommended regarding the types of costs to be included in the fee and the documentation needed to support fee computations, as well as regarding the establishment of adequate internal controls over the collection of and the accountability for special use permit revenues

at the park level, the Park Service will have gone a long way in addressing some of the issues described above. Similar attention will have to be paid, however, to additional revisions necessitated by the proposed legislation, such as the need to identify the types of activities covered by the legislation.

As to the development of reliable accounting systems, progress is also being made in this regard. In our November 1988 audit report entitled "User Charges and Collections," we reported that, of the 25 parks visited, none of the parks controlled the permits issued with a numbering system that would facilitate reporting, auditing, and accountability. In contrast, in our recent audit of special use fees, we found that 9 of the 13 parks reviewed had implemented adequate controls for collecting and accounting for revenues generated from special use permits. Generally, we found that those parks with prior experience in collecting other types of revenues, such as entrance or recreation fees, were more effective in collecting and accounting for the special use fees. The Park Service will need to ensure that sufficient training is provided at the park units in the areas of assessing, collecting, and accounting for fees to help ensure the continuation of this positive trend.

Moreover, as this Subcommittee is aware, the lack of financial accountability is a problem that has plagued the Park Service in the past. On February 9, 1995, the Deputy Inspector General testified regarding the financial accounting and reporting problems in the Park Service. The basis for that testimony was our audit of the Park Service's financial statements for fiscal years 1993 and 1994, during which we concluded that the information in the Park Service's financial records and statements was not accurate, reliable, or supported by the accounting system. We also concluded that an adequate internal control system to identify and correct accounting errors in a timely manner had not been implemented and that the usefulness of the Park Service's financial records and reports was questionable. We attributed these conditions to a lack of commitment by Park Service managers in ensuring adequate financial management controls and accurate reporting of financial data on a Servicewide basis. As I stated in an August 8, 1995, letter to the Chairman of this Subcommittee, we believe that Park Service management now is committed to establishing a sound financial accounting control environment and to reporting accurate and reliable annual financial statements.

Our belief in this regard is based on the close involvement we have had with the Park Service since the February 1995 testimony. First, a senior auditor from the Office of Inspector General has worked on a daily basis for the past 6 months with a team that the Park Service established to identify and resolve its financial accounting and reporting problems. In establishing this team, the Park Service sought technical assistance from our office, from the Department of the Interior's Office of Financial Management, and from advisors from the private sector. Second, the Office of Inspector General has had a team of auditors working in the Park Service since April 1995 doing preliminary work in preparation for an audit of the Park Service's fiscal year 1995 financial statements. The auditors have monitored the Park Service team's efforts on a regular basis and have reported that significant progress has been and continues to be made.

A considerable amount of work remains to be done. However, we believe that, if the type of commitment and progress that the Park Service has demonstrated during the past 8 months continues, the Park Service should be able to adequately account for and report on any fees collected under the proposed amendment.

Finally, if the proposed amendment is adopted, there would be a need for effective program oversight by the Park Service in order to ensure proper implementation of the fee and cost recovery program. The Office of Inspector General can also assist in this regard through our annual audits of the Park Service's financial statements conducted pursuant to the Chief Financial Officers (CFO) Act. For income collected pursuant to the proposed amendment, we would be willing to expand those audits to include an evaluation of the internal accounting controls and testing of the accounting transactions. Our annual CFO audit reports would then disclose any reportable weaknesses or deficiencies associated with these revenues.

This concludes my prepared statement. I would be happy to respond to any questions that the Subcommittee may have concerning my testimony.

U.S. Department of the Interior
Office of Inspector General

AUDIT REPORT

SPECIAL USE FEES, NATIONAL PARK SERVICE

REPORT NO. 96-I-49
OCTOBER 1995

E-IN-NPS-004-95

United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Headquarters Audits
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Arlington, VA 22209

OCT 27 1995

Memorandum

To: Assistant Secretary for Fish and Wildlife and Parks

From: Judy Harrison
Acting Assistant Inspector General for Audits

Subject: Final Audit Report on Special Use Fees, National Park Service (No. 96-I-49)

This report presents the results of our audit of special use fees in the National Park Service. The objective of the audit was to determine whether the Park Service established, collected, and expended special use fees in a consistent manner and in accordance with applicable laws, regulations, and guidance. This audit was initiated at the request of the Chairman of the U.S. House of Representatives Subcommittee on National Parks, Forests and Lands.

We concluded that the Park Service did not implement its authority to collect and retain fees for special park uses in a consistent manner. This occurred because the Park Service has not completed its efforts to revise the existing guidance (NPS-53, "Special Park Uses") to address the changes created by the Appropriations Acts of 1991, 1992, 1993, and 1994. As a result, there were inconsistencies among the parks regarding: (1) the types of activities that were subject to a fee; (2) the bases for determining the amount of the fee; and (3) the use of fee revenues. In addition, we identified deficiencies in the controls for collecting and/or accounting for fee revenues at 4 of the 13 parks we reviewed and found that 11 of the parks carried over revenues totaling $331,864 into fiscal year 1995, although the authority to carry over funds was not specifically addressed in the Act. According to Accounting Operations Division records, the Park Service carried over special use funds totaling $514,456 from all parks into fiscal year 1995. We recommended that the Director, National Park Service, expedite the revision of NPS-53 to address these issues. In that regard, we are available to consult with the Park Service on the revisions to NPS-53.

Based on the Park Service's September 28, 1995, response (see Appendix 5) to the draft report, we consider the recommendation resolved but not implemented. Accordingly, the unimplemented recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation, and no further response to the Office of Inspector General is required (see Appendix 6).

The Park Service also provided additional comments on the draft report, which were incorporated into the report as appropriate.

The legislation, as amended, creating the Office of Inspector General requires semiannual reporting to the Congress on all audit reports issued, actions taken to implement audit recommendations, and identification of each significant recommendation on which corrective action has not been taken.

We appreciate the assistance of officials from the National Park Service in the conduct of our audit.

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INTRODUCTION

BACKGROUND

The National Park Service guidelines (NPS-53, "Special Park Uses"), which were issued in 1986 and were being revised as of July 1995, define special park use as "any activity which is proposed for, or exists within, a National Park System area which requires some type of written permission from a National Park Service official." However, according to NPS-53, permits and fees are not always mandatory for such activities. For example, one park unit may consider an athletic event a special use that requires a special use permit and a fee, whereas another park unit may consider the same type of event a normal activity that requires a written activity permit but does not require a special use permit or a fee. In March 1995, the Park Service's Nationwide Special Use Coordinator, appointed in September 1994, conducted an informal survey of the Park Service's individual park units to identify special use activities and related fees. Of the 367 individual park units, 242 park units responded that they had issued 146,832 special use permits during calendar year 1994, which covered 92 special use activities. The most common special use activities included backcountry camping, athletic events, picnics, fishing, biking, weddings, agriculture, residential leasebacks,[1] canoeing, rafting, and commercial filming.

The Park Service's Appropriations Act of 1994, Public Law 103-138, gave the Park Service permanent authority to recover and retain all costs associated with special use activities. (The Park Service will address the Appropriations Act of 1994 in its revision to NPS-53). The Appropriations Acts for fiscal years 1991, 1992, and 1993 had given only 1-year authority to recover and retain all costs associated with special use permits, and Appropriations Acts prior to fiscal year 1991 had given 1-year authority to recover and retain unbudgeted costs.[2] The Park Service's Accounting Operations Division reported that during fiscal year 1994, park units recorded $3,787,347 in special use fees; spent or obligated $3,272,891; and carried over $514,456 for future use. Two special accounts were used to record income and expenses associated with special use activities: Program Work Element 456 for budgeted activities and Program Work Element 457 for unbudgeted activities.

[1]A residential leaseback is a transaction involving the sale of property, with the purchased property then being leased to a private individual.

[2]Unbudgeted costs are the costs of unexpected activities (including any applicable overhead) associated with the extra services necessary to support the permittee, such as overtime pay, supplies, materials, and utility costs. Budgeted costs are the costs of planned activities (including any applicable overhead) associated with extra services necessary to support the permittee, such as regular salaries and fringe benefits.

OBJECTIVE AND SCOPE

The objective of the audit was to determine whether the Park Service established, collected, accounted for, and expended special use fees in a consistent manner and in accordance with applicable laws, regulations, and guidance. The audit was initiated in response to a February 13, 1995, request from the Chairman of the U.S. House of Representatives Subcommittee on National Parks, Forests and Lands to evaluate the Park Service's implementation of its authority under the fiscal year 1994 Appropriations Act to recover costs for special use activities. The Subcommittee specifically requested that we review how this authority was implemented at five parks (Grand Canyon National Park, Yellowstone National Park, Canyonlands National Park, Santa Monica Mountains National Recreation Area, and Yosemite National Park); the basis used at each park for establishing permit fee levels; how each park accounted for the revenues generated; and how the revenues were spent, including whether they were spent in support of the purposes for which they were collected. We expanded the scope of our review to include eight additional parks, which we selected based on the reported revenues for 1994. The 13 parks in our review reported a total of $2,022,535 in special use fees for fiscal year 1994 (see Appendix 4). The revenues from these parks accounted for 53 percent of all special use permit revenues ($3,787,347) reported by the Park Service's Accounting Operations Division for that fiscal year.

Our audit was made, as applicable, in accordance with the "Government Auditing Standards," issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures that were considered necessary under the circumstances. Our audit was conducted from February through August 1995 and included a review of financial records and interviews with Park Service personnel at the Division of Ranger Activities in Washington, D.C.; the Accounting Operations Division in Reston, Virginia; the Office of the Special Use Coordinator at Colonial National Park in Yorktown, Virginia; and 13 national parks, seashores, recreation areas, and monuments (see Appendix 1). Our audit generally covered activities that occurred during fiscal year 1994.

As part of our review, we evaluated the Park Service's internal controls over the collection and expenditure of special use fees. We found internal control deficiencies in the areas of policy and guidance for determining activities subject to fees, establishing the fees, accounting for and collecting the fees, and using fee revenues. Our recommendation, if implemented, should improve the controls in these areas.

We also reviewed the Secretary's Annual Statement and Report to the President and the Congress for fiscal year 1994, as required by the Federal Managers' Financial Integrity Act of 1982, and determined that there were no reported weaknesses that were within the objective and scope of our audit.

PRIOR AUDIT COVERAGE

During the past 5 years, the Office of Inspector General has issued one audit report on selected special use fees. The March 1993 report "Recreation Fee Charges and Collections, National Park Service" (No. 93-I-793) stated that restrictions in the Land and Water Conservation Fund Act of 1965, Public Law 88-578, codified at 16 U.S.C. 4601-4, prevented the Park Service from collecting about $8.8 million of user fees for certain types of camping, hunting, fishing, and boat launching activities. The report recommended that the Director, National Park Service, seek legislative relief from these restrictions. In its response to the report, the Park Service agreed to consider including, in future requests for legislative changes, authority to collect user fees for backcountry camping and boat launching from park boat ramps but not for hunting and fishing. During our current review, we found that the Park Service was collecting and retaining special use permit fees for the issuance of backcountry camping permits and related reservations and fishing permits under the authority of the Appropriations Act of 1994.

FINDING AND RECOMMENDATION

SPECIAL USE FEES

The National Park Service did not implement its authority to collect and retain fees for special use activities in a consistent manner. The Park Service's Appropriations Act of 1994 provided the Park Service with permanent authority "to recover and retain all costs of providing necessary services associated with special use permits, such reimbursement to be credited to the appropriation current at that time." However, the Park Service has not completed its efforts to revise the existing guidance to address the changes created by the Appropriations Acts of 1991, 1992, 1993, and 1994. As a result, there were inconsistencies among the parks regarding the types of activities on which special use fees were assessed; the methods used in establishing the fees; and the use of fee revenues. Thus, there was no assurance that the appropriate amount of fees was being collected. In addition, 4 of the 13 parks we reviewed had not established adequate controls to ensure proper accountability of fee revenues, and 11 of the parks carried over special use revenues totaling $331,864 from fiscal year 1994 to fiscal year 1995.[3]

The 1986 Park Service guidelines, NPS-53, provide general guidance on issuing special use permits and establishing related fees. However, NPS-53 does not provide clear and specific guidance on the types of activities subject to special use fees; the method for establishing fees, including the types of costs that should be considered; and the types of activities on which the revenues can be spent. In addition, since NPS-53 is not current, it does not address the new authorities provided under the 1994 Appropriations Act. Specifically, it does not address the elimination of the restriction on issuing special use permits for hunting, fishing, and backcountry camping or the authority to retain and use fee revenues in the park. As a result, each park we reviewed used its own discretion in implementing the provisions of the Appropriations Act, which resulted in the deficiencies and inconsistencies identified in this report.

Determining Activities Subject to Fees

We found that the 13 parks reviewed had implemented changes in their special use activity procedures to incorporate the provisions provided under the Park Service's Appropriations Acts for 1991 and subsequent years to collect and retain fees. Five parks had instituted special use permit fees for their major activities; seven parks had converted existing fee activities to special use fee activities so that they could retain the revenues; and one park had used a combination of both methods (see Appendix 2). For example, prior to 1991, Yellowstone did not have the authority to collect fees for fishing activities, and Canyonlands did not have authority to collect

[3]The Office of the Solicitor is currently preparing a legal opinion that will address how revenues can be spent and whether they can be carried over from one fiscal year to another.

fees for the issuance of backcountry camping permits and related reservations. The collection of fees for these activities was prohibited by the Land and Water Conservation Fund Act of 1965. Both of these parks started collecting special use permit fees for the specified activities when the authority to do so was granted by the provisions of the Appropriations Acts for 1991 through 1994. Similarly, Assateague Island National Seashore had been collecting money from its off-road vehicle permits under prior existing authority. However, Assateague converted these permits to "special use" permits under the authority provided by the 1991 Appropriations Act in order to retain the funds to support its operations.

Overall, our review identified inconsistencies among the 13 parks in determining which activities were subject to special use fees (see Appendix 3). For example:

- Nine parks issued permits for weddings, but only 7 of the 9 parks charged a fee for the permits, which totaled $6,878 in fiscal year 1994.

- Six parks issued permits for backcountry camping, but only Canyonlands collected fees for reservations and issuance of the permits, which totaled $63,530 in fiscal year 1994.

- Six parks issued permits for group picnics, but only five of the six parks collected fees for the picnics, which totaled $10,058 in fiscal year 1994.

- Gateway National Recreation Area issued 3,621 parking permits for fishing that allowed access to off-road and other areas where public access is normally restricted. It did not collect any fees for this special use. In similar circumstances, Assateague Island charged a $40 annual fee for off-road access and collected $209,440 in fiscal year 1994.

Establishing Fees

The parks were not consistent in the methods they used for establishing special use fees, and the fees were not always set at the appropriate level or supported by adequate cost data. General cost recovery guidance, such as that contained in Office of Management and Budget Circular A-25, "User Charges," requires fees to be established based on cost or market data and provides for the recovery of both direct and indirect costs. However, NPS-53 does not provide park managers with sufficient guidance on when to use the cost or market approach in establishing the fees, the types of costs to include in the calculation of fees, or the documentation necessary to support the fee determination. The 13 parks we reviewed established rates as follows: 5 parks (Grand Canyon, Santa Monica Mountains, Yosemite, Statue of Liberty National Monument, and Zion National Park) used cost data; 3 parks (Assateague Island, Gateway, and Yellowstone) used comparability studies; 3 parks (Delaware Water Gap National Recreation Area, Lake Mead National Recreation Area, and Point Reyes National Seashore) used appraisals; and 2 parks (Canyonlands and Golden Gate National Recreation Area) used the "collective judgment and

experience" of their personnel to establish the fees (see Appendix 2). Examples of deficiencies and inconsistencies in the establishment of rates, which we believe were caused by insufficient guidance, are as follows:

- Grand Canyon, Santa Monica Mountains, Yosemite, Statue of Liberty, and Zion charged fees that were designed to recover the direct costs of personal services, utilities, waste management, administrative activities, and management reviews that were associated with the special uses. However, the parks did not have adequate documentation to support the fee computations and did not include overhead costs in the fees.

- Golden Gate established a basic fee of $25 for most permits except commercial filming. This amount was based on management estimates and not on the actual costs of providing the services or on comparable values.

- All 13 parks issued permits for commercial filming, but the fees varied among the parks. Golden Gate collected daily location use fees and accepted donations ranging from $50 to $6,600 based on the specific filming location; three parks charged a daily monitoring fee of $300; six parks charged actual monitoring costs; and three parks did not charge a fee.

- Delaware Water Gap used appraisals to assist in establishing fees for 18 residential leasebacks. Although the appraised value of these leasebacks totaled $104,100, the fees were set at less than the appraised values for each of the leasebacks, resulting in revenues totaling only $76,831. There was no documentation to support the basis for the lower annual fees.

- Assateague Island considered the annual rates charged by the States of Delaware ($50) and New Jersey ($100) in establishing its off-road vehicle permit fee of $40. Yellowstone performed a comparability study of the fishing license fees charged by surrounding states before it established its fishing permit fees. However, Yellowstone collected $5 for a 7-day permit and $10 for an annual permit, whereas the comparables ranged from $13 to $24 for an annual fishing license. Neither park had documentation to support the basis for setting the fees at rates lower than those at comparable locations.

- In 1990, Lake Mead used a 1986 appraisal to establish fees ranging from $540 to $765 per year for its cabin site leases. When the leases were renewed in 1995, the rates were expected to increase because comparable property values had increased. However, the rates were not increased because Lake Mead did not receive any responses to a contract prospectus to conduct new appraisals.

Collecting and Accounting For Fees

Nine of the 13 parks in our review had implemented adequate internal control procedures for collecting and accounting for revenues generated from special use permits. Four parks (Assateague, Yellowstone, Grand Canyon, and Canyonlands) used prenumbered or sequentially numbered permits that were sold at the visitor centers and/or entrance stations and deposited the receipts into separate accounts established for special use fee revenues. Five parks (Delaware Water Gap, Santa Monica Mountains, Yosemite, Point Reyes, and Lake Mead) issued bills for collection to recover the special use fees and likewise established separate accounts for the fees. However, the remaining four parks (Golden Gate, Gateway, Statue of Liberty, and Zion) did not establish sufficient controls to ensure collection and/or proper accountability of the revenues generated from special use permits:

- Golden Gate did not have adequate controls to ensure that permit fees were actually collected and deposited into the proper account. Deposit tickets usually included funds collected for several different accounts, and we could not determine whether the funds were deposited into the proper account because the permit number was not recorded by Golden Gate on the copy of the permittee's check and the permit files did not identify the deposit ticket. We also found that: (1) special use permit fees were not consistently charged or collected (for 19 of the 97 filming permits, the fees were either waived [12 at a loss of $1,800] or the permittee paid less than the standard $150 fee [5 at a loss of $450] or more than the standard fee [2 that overpaid by $300]); (2) specified fees were not always collected for permits issued for weddings, picnics, and athletic events (only 7 of the 35 wedding permits reviewed resulted in fees that met the $125 minimum fee established by Golden Gate, resulting in a loss of $2,450); and (3) permit fees were not always collected prior to the event or we could not determine whether the fees were collected at all (fees for 54 of the 97 film permits reviewed were either collected after the event occurred [32 permits totaling $4,400] or there was no cross reference or copy of the check to determine whether a fee was actually collected [22 permits totaling $2,975]).

In addition, Golden Gate was not recording all special use fees into the special use fee accounts. Instead, location use fees for filming and fees for other uses which totaled $103,000 for the period October 1, 1994, through May 17, 1995, that were based on the location and/or the number of participants were recorded in a "donations" account. Unobligated funds in such an account can be carried forward to the following fiscal year. Golden Gate developed standard language for letters for permittee donations. The letters for filming stated:

> I'd like to extend my thanks for the opportunity to conduct commercial filming within the Golden Gate National Recreation Area (GGNRA). As [vendor name] appreciates that the National Park Service seeks to maintain the Park's natural and urban settings, restore fragile wilderness habitats, and create site improvements that offer visitors new opportunities to explore and enjoy the Park, we are pleased to present the National Park Service with a

> [amount of] donation, which is to be put toward GGNRA operations and general maintenance.

The vendor's name and the agreed upon "donation" amount were added by the park and sent to the permittee after completion of the filming activity.

- Gateway did not implement adequate controls to ensure that all special use fees were paid. We found that Gateway did not always place the permit number on the copies of the checks received for special events. As a result, we were unable to reconcile receipts to the permits or deposit tickets. In addition, advance payments were not always received and performance bonds were not required to ensure payment to Gateway. As a result, Gateway officials have been required to pursue payments, and permittees have defaulted on bills owed to Gateway. In one instance, although a permittee was allowed to charge admission fees for a festival, a performance bond was not required, and the permittee did not pay the $3,087 owed to Gateway. The bill was sent to a collection agent after the issuance of a third delinquency notice.

Gateway also did not ensure that sponsors of special events paid the appropriate fees. A permit issued for a large festival provided for Gateway to receive 50 percent of the revenues generated from a $5 parking fee. On the last day of the 5-day event, the permittee sent a check for $13,495 (apparently based on 5,398 cars) for Gateway's share of the parking revenues. However, the permittee did not provide any documentation or explanation as required by the permit to demonstrate how the amount was calculated, nor did Gateway officials maintain any records (such as attendance or revenue totals) to ensure proper payment. According to Gateway's Superintendent, some of these festivals have had an attendance of more than 100,000 people over a period of 5 days.

- Statue of Liberty did not record the permit number on the copies of the checks remitted by the permittee. Therefore, receipts could not be reconciled to the permits issued or to deposits. In addition, we found that Statue of Liberty was not always complying with the Treasury Manual, which requires that receipts be deposited once a month or when they total $5,000, whichever comes first. For example, a $26,969 deposit made on June 9, 1994, included an $8,000 check held for 3 days; a $6,000 check held for 14 days; and a $10,000 check held for 15 days.

- At Zion, tunnel escort[4] fees are collected at its entrance stations, and a cash register receipt is issued for verification prior to passage through the tunnel. The amounts recorded by the cash registers are traceable to the deposit and remittance reports, and the revenues are recorded into the appropriate accounts. However, without prenumbered receipts, we could not be assured that all the appropriate fees were collected.

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[4]Oversized vehicles that pass through a narrow tunnel in Zion are required to be guided by Zion personnel for safety reasons.

Expending Fee Revenues

The Subcommittee requested that we determine how special use revenues were spent, including whether they were spent in support of the purposes for which they were collected. We identified inconsistencies among the parks in how the revenues were spent and found that 11 of the 13 parks reviewed carried over unobligated revenues totaling $331,864 to fiscal year 1995.

Of the 13 parks, 6 parks (Grand Canyon, Canyonlands, Gateway, Golden Gate, Point Reyes, and Yosemite) spent special use fee receipts to support the activity that generated the revenue. Of the remaining seven parks, Santa Monica Mountains spent fee revenues from filming on any special use activity, particularly at Paramount and Circle X Ranches; Yellowstone and Delaware Water Gap indicated that they generally spent special use fee receipts to support the activity that generated the revenue, although our review of the parks' records indicated that some charges were not related to the special use activity; Zion, Assateague Island, and Statue of Liberty spent the revenues for general park purposes in addition to the special use activity; and Lake Mead had not spent any of the revenues collected from special use fees at the time of our review. During fiscal year 1994, the 13 parks spent fee revenues as follows:

- Canyonlands' records indicate that it spent $47,059 of the $63,530 collected from the sale of backcountry permits in support of the purposes for which the fees were established and carried over the remaining $16,471 for use during fiscal year 1995. The expenditures consisted of: (1) $26,591 in salary costs for two seasonal reservation system rangers; (2) $11,464 for backcountry office supplies ($1,139), service on cash registers ($125), and contract services to pump backcountry toilets ($10,200); (3) $8,814 for deposit safes ($389), computer support equipment ($439), and pumping equipment for backcountry toilets ($7,986); and (4) $190 in travel costs associated with fee collection training.

- Grand Canyon spent $50,108, which included $10,148 in carryover funds from fiscal year 1993 as well as a large portion of the $44,175 collected during fiscal year 1994, in support of the river use activity for which the fees were collected. Grand Canyon carried over $4,215 for use during fiscal year 1995. The expenditures included $24,902 for the salary costs of a full-time River Waiting List Clerk ($23,766) and the partial salaries of a river use coordinator ($815), a boat inspector ($284), and two part-time clerks ($37). Grand Canyon also spent: (1) $13,886 for equipment such as outboard motors, computers, and printers; (2) $11,087 for mailings, data base management, and other supplies; and (3) $233 for travel and training costs associated with the waiting list data base.

- Santa Monica Mountains used $200,695 of the $228,412 collected from filming activities in support of special use activities and carried over $27,717 for use during fiscal year 1995. The expenditures included $132,195 in personnel costs for: a full-time permit coordinator and three seasonal support staff ($108,881);

maintenance personnel ($17,275); and administrative support ($6,039). Santa Monica Mountains also spent $68,500 in services/purchases for: administrative supplies and services, including data processing and communication charges ($22,466); repairs and maintenance ($18,805); equipment rentals ($7,824); utilities, trash removal, and groundskeeping ($11,089); and other expenses related to various special use activities ($8,316).

- Yosemite records indicate that it spent $54,745 of the $56,500 collected for permits issued to commercial bus operators in support of the special use activity and carried over $1,755 to fiscal year 1995. Expenditures consisted of $53,324 in salary costs for a ranger and clerical staff to support permit issuance, revenue collections, and bus inspections. The Park spent the remaining $1,421 to purchase office supplies, including a desk chair and communication equipment, and bus inspection supplies in direct support of the special use permits office.

- Gateway records show that it spent $93,143 of the $106,779 collected in revenues from building use fees, special event activities, and a cost-sharing agreement in support of these activities and carried over $13,636 for use during fiscal year 1995. Expenditures included: the salaries of the special use permit coordinators and overtime incurred by protection and maintenance staff during the special events ($53,348); the rental of trash dumpsters ($28,038) and portable toilets ($7,022); and the purchase of miscellaneous door locks and maintenance supplies ($4,735).

- Golden Gate records indicate that it spent $56,662 of the $66,929 collected from special use permits to support filming and other special events and carried over $10,267 for use during fiscal year 1995. The expenditures included $15,973 in overtime costs incurred by rangers and Park Police employees during the filming or other special event activity. Golden Gate also spent $15,520 for computers ($10,330), printers ($4,012), and software ($1,178) for the special permit use group. Other expenditures were: $5,108 for FTS services; $11,860 for General Services Administration rental costs for a passenger vehicle and a truck used by the special permit use group; $3,640 for materials and supplies needed to construct barricades for special event control; $3,000 for a lifeguard station; $977 for the rental of portable toilets; and $584 for miscellaneous materials and supplies for the group.

- Point Reyes records indicate that it spent $53,611 of the $192,969 collected from the grazing, restoration of ranchlands, and other special uses during fiscal year 1994 to support these activities. The $139,358 balance was deposited throughout the year into a general Treasury account. It was Point Reyes policy to retain only the amount of funds necessary to administer the special use permits. Point Reyes records indicate that it spent $59,411 ($5,800 more than the amount retained) for: the salary costs of protection and resource management employees ($49,298); equipment rental ($3,558); General Services Administration truck rental ($1,715); phone and modem installation ($1,678); office supplies ($1,051); and miscellaneous materials and supplies ($2,111). The additional $5,800 was from park operating funds.

- Yellowstone records indicate that it spent $325,812 of the $392,247 collected from fishing permits to support fishing-related and general park activities and carried over $66,435 to fiscal year 1995. While expenditures for travel, equipment, and other costs pertained exclusively to fishing-related activities, charges for salaries were for employees whose responsibilities included fishing, as well as other park-related activities. For example, Yellowstone hired additional seasonal rangers at a cost of $196,157 to monitor over 2,000 miles of fishable streams for permit violations. The Interpretation Division spent $41,601 for salaries of five new seasonal employees (one for each visitor center), who sold fishing permits and explained the Park's fishing regulations. These employees also performed duties not related to the fishing activities. Conversely, other Park employees who were not paid out of the special use permit revenue account also monitored fishing violations and sold fishing permits.

- Delaware Water Gap records show that it spent $62,225 of the $76,831 in revenues collected from residential leaseback fees in support of that activity or other park activities and carried over $14,606 for use during fiscal year 1995. The expenditures consisted of $55,584 for the salary of the Management Assistant ($42,418) and for part of the salaries for office assistants ($13,166). The Management Assistant was responsible not only for conducting the leaseback program but also for implementing Servicewide, regional, and park regulations and policies pertaining to the management of historic leases; concession operations; and other special park uses. The remaining $6,641 was spent on a computer for the leaseback program office ($3,158) and for the moving costs of an employee ($3,483).

- Zion spent $279,744, which consisted of $11,143 in carryover funds from fiscal year 1993 and the $268,601 of fiscal year 1994 revenues in support of the tunnel escort activity as well as general park activities. For example, Zion used $258,818 to pay part of the salaries of employees who served both as tunnel escorts and collectors of entrance and campground fees at Zion. Because of this dual responsibility, the payroll and local travel expenses of the tunnel escorts and the entrance fee activities were not accounted for separately. Also, most of the equipment ($2,080) and other charges ($9,873) against these revenues benefited general park activities rather than solely the tunnel program. For example, the $9,873 in other charges included $2,987 to repair two vehicles that were used for general patrol duties and $1,284 for entrance station fee collection supplies and materials.

- Assateague Island spent $158,533 of the $209,440 in revenues generated from off-road vehicle permits on general park activities. The $50,907 that remained was carried over to fiscal year 1995. The expenditures included $28,261 for materials, supplies, and equipment to construct an addition to the existing visitor center. The new addition serves as the audio-visual center and is not directly associated with the off-road vehicle permit activity. Assateague Island also charged the entire salary costs for the Chief of Maintenance ($42,032) for the last 9 months of the year and the Chief Ranger ($32,727) for the last 7 months of the year to the special use fee

account. A substantial portion of these individuals' time was spent on activities other than off-road vehicle activities during these periods.

- Statue of Liberty spent $134,806 of the $139,425 in revenues generated from the special events for general park expenses as well as the special use activity. The $4,619 balance was carried over to fiscal year 1995. Statue of Liberty spent $63,644 in direct support of the special events: $53,522 in overtime costs for park personnel; $3,801 for communication equipment; $2,709 for a computer for the special events coordinator; and $3,612 in maintenance and other costs. The remaining $71,162 was used to pay for expenses that benefited all park users, not just special event permittees. Statue of Liberty charged the special use fee account to pay the annual rental cost ($19,200) for a private bridge that was used by Statue of Liberty and concession personnel and not by special event permittees. Statue of Liberty also used special permit revenues to: (1) purchase a color printer ($10,577); (2) rent cellular telephones ($3,500); (3) purchase security devices ($1,486); (4) purchase visitor passes ($1,000); and (5) pay for radio repairs ($399). In addition, Statue of Liberty charged the special use fee account $35,000 for utilities for special events, which represented approximately 5 percent of the utility costs for the year. The allocation was not based on meter readings or supported by any other documentation. According to Statue of Liberty officials, the utility charges were based on the estimated percentage of time the park was used for special events.

- Lake Mead did not spend any of the $80,325 in revenue collected from its land lease program during fiscal year 1994. At the time of our review, Lake Mead had not spent any of the $150,000 in revenues deposited into its special use account since it converted its land lease program to a special use activity in 1992. Lake Mead did not spend the revenue because the Park Service's Western Regional Office had not considered the leasing activity a special use. During fiscal year 1995, the issue was resolved, and the Regional Office has authorized Lake Mead to use the fees.

Finally, we found that 11 of the 13 parks reviewed carried over special use revenues totaling $331,864 into fiscal year 1995. Point Reyes used only the amount of revenues needed to recover its costs for managing the agriculture leases and remitted excess revenues to the Treasury during the year. Zion spent all the revenues from fiscal year 1994. According to Accounting Operations Division records, the Park Service carried over special use funds totaling $514,456 from all parks into fiscal year 1995.

The Park Service's Appropriations Act of 1994 states: "Notwithstanding any other provision of law, the National Park Service may hereafter recover all costs of providing necessary services associated with special use permits, such reimbursements to be credited to the appropriation current at that time." The Park Service has interpreted this authority to allow the parks to use special use permit revenues to support any park operations and to carry over unobligated funds to the next fiscal year. Special use permit revenues were carried over by depositing the revenues into the "Construction" appropriation (Business and Clearing), which is a "no year" appropriation. The Office of the Solicitor, Division of Conservation and Wildlife,

is preparing a legal opinion that will address how the revenues can be spent and whether they should be considered no year funds.

Recommendation

We recommend that the Director, National Park Service, direct appropriate officials to expedite the revision of NPS-53, "Special Park Uses," subject to the advice provided by the Solicitor's office regarding the use and retention of special use permit revenues. In order to ensure consistency among the parks and to provide for the proper assessment, collection, accounting for, and disposition of fees, the revised guidelines should provide detailed instructions for:

- Identifying the types of activities that require special use permits.

- Establishing special use permit fees, including the types of costs to include in the fee and the documentation needed to support the fee computation.

- Establishing adequate internal controls over the collection of and the accountability for special permit use revenues at the park level.

- Ensuring that special use fee revenues are accounted for in accordance with legislative authority.

National Park Service Response

The September 28, 1995, response (see Appendix 5) from the National Park Service concurred with the recommendation, stating that the draft of NPS-53, "Special Park Uses," Release No. 2, addresses and corrects each of the parts of the recommendation. The response further stated that the revised guidance will "clear up much of the confusion," particularly the issue of recovering overhead costs.

The Park Service also stated the following: that our report does not state that the lack of training needs "immediate emphasis if NPS [National Park Service] is to achieve effective compliance" with the provisions of NPS-53 and that the report did not discuss the issue of including training as an overhead cost element; that the use of the word "revenues" in our report implies "profit" and that the Park Service was referring to "cost recovery, nothing more"; and that funds deposited into the special donation account at Golden Gate were "above and beyond" permit fees collected for events and films.

Office of Inspector General Comments

Based on the Park Service's response, we consider the recommendation resolved but not implemented (see Appendix 6).

Regarding training, we agree that training is needed, particularly at the park level, and that such training should be provided once the revised NPS-53 has been issued. In addition, our audit did not address the types of costs to be included in the overhead accounts, and we did not agree at the exit conference to address the issue of "including training as an overhead cost element."

Regarding the term "revenues," we used this term because it was used by the Park Service's Accounting Operations Division in accounting for the amount of special use fees collected.

Regarding the donations account at Golden Gate, we are aware that donations did not include permit fees or salary recovery for Golden Gate personnel. However, the donations did include location fees developed by Golden Gate for film permits. These fees should be recorded in the special use account because they represent fair market value for use of lands and buildings. The fees were developed by comparing like fees in the surrounding park areas.

APPENDIX 1

SITES VISITED

Office and Parks	Location
Offices	
Accounting Operations Division	Reston, Virginia
Division of Ranger Activities	Washington, D.C.
Office of Special Use Coordinator, Colonial National Park	Yorktown, Virginia
Parks	
Assateague Island National Seashore	Berlin, Maryland
Canyonlands National Park	Moab, Utah
Delaware Water Gap National Recreation Area	Bushkill, Pennsylvania
Gateway National Recreation Area	New York, New York
Golden Gate National Recreation Area	San Francisco, California
Grand Canyon National Park	Grand Canyon, Arizona
Lake Mead National Recreation Area	Boulder City, Nevada
Point Reyes National Seashore	Point Reyes Station, California
Santa Monica Mountains National Recreation Area	Agoura Hills, California
Statue of Liberty National Monument	New York, New York
Yellowstone National Park	Yellowstone National Park, Wyoming
Yosemite National Park	Yosemite National Park, California
Zion National Park	Springdale, Utah

MAJOR SPECIAL USE PERMITS AND REVENUES FOR FISCAL YEAR 1994

Park	Type of Special Use	Established Prior to 1991	Permit Fees and Their Bases
Assateague Island NS	Off-Road Vehicle	Yes	$40 per year; based on comparables
Canyonlands NP	Backcountry Permits	No	$5 per day; based on managers' estimates $10 for backcountry; based on managers' estimates $25 for 4-wheel drive campsites; based on managers' estimates
Delaware Water Gap NRA	Agriculture	Yes	$65 to 4,924 per acre per year; based on negotiations
	Residential Leaseback	Yes	$3,060 to $7,446 per year; based on appraisals
Gateway NRA	Building Rental	Yes	$125 to $1,000 per day; based on comparables
Golden Gate NRA	Filming	Yes	$150 plus location fee; based on comparables
	All Other Events	No	$25-$500 per number of participants; based on managers' estimates.
Grand Canyon NP	River Use	Yes	$50 river fee; based on cost analyses conducted in 1989 $25 to be included on waiting list; based on cost analyses conducted in 1989
Lake Mead NRA	Cabin Site Leases	Yes	$540-$765 per year; based on appraisals
Point Reyes NS	Agriculture	Yes	$2.63-$3.57 per animal unit; based on appraisals
Santa Monica Mountains NRA	Filming	No	$120-$154,879 per film; based on cost analyses

Park	Type of Special Use	Established Prior to 1991	Permit Fees and Their Bases
Statue of Liberty NM	Evening Events	No	$1,000 to $8,000 per night; based on cost estimates
Yellowstone NP	Fishing	No	$5 for a 7-day permit; based on comparables $10 annually; based on comparables
Yosemite NP	Commercial Bus	No	$250 per year per company; based on cost estimates
Zion NP	Tunnel Escort	Yes	$10 per round-trip; based on the prior year's cost analysis

Legend:

NS = National Seashore
NP = National Park
NRA = National Recreation Area
= National Monument

SELECTED ACTIVITIES REQUIRING PERMITS AND FEES FOR FISCAL YEAR 1994

	Weddings		Backcountry		Filming		Picnics	
	Permit	Fee	Permit	Fee	Permit	Fee	Permit	Fee
Assateague Island NS	Yes	No	Yes	No	Yes	No	Yes	Yes
Canyonlands NP	N/A		Yes	Yes	Yes	Yes	N/A	
Delaware Water Gap NRA	Yes	Yes	N/A		Yes	No	N/A	
Gateway NRA	Yes	Yes	N/A		Yes	No	Yes	Yes
Golden Gate NRA	Yes	Yes	N/A		Yes	Yes	Yes	Yes
Grand Canyon NP	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Lake Mead NRA	N/A		N/A		Yes	Yes	N/A	
Point Reyes NS	N/A		N/A		Yes	Yes	Yes	No
Santa Monica Mountains NRA	Yes	Yes	N/A		Yes	Yes	Yes	Yes
Statue of Liberty NM	N/A		N/A		Yes	Yes	N/A	
Yellowstone NP	Yes	Yes	Yes	No	Yes	Yes	N/A	
Yosemite NP	Yes	Yes	Yes	No	Yes	Yes	N/A	
Zion NP	Yes	No	Yes	No	Yes	Yes	N/A	

Legend:

NS = National Seashore
NP = National Park
NRA = National Recreation Area
NM = National Monument
N/A = No permit or fee required for this activity.

SPECIAL USE PERMIT REVENUES AND EXPENDITURES FOR FISCAL YEAR 1994

PARK	Account 456 (Budgeted)			Account 457 (Unbudgeted)			Total*		
	Revenue	Expenditures	Carryover	Revenue	Expenditures	Carryover	Revenue	Expenditures	Carryover
Assateague Island NS	$136,346	$138,995	$(2,649)	$73,094	$19,538	$53,556	$209,440	$158,533	$50,907
Canyonlands NP	72,930	55,668	17,262	3,079	1,700	1,379	76,009	57,368	17,262
Delaware Water Gap NRA	76,831	62,225	14,606	59,122	48,126	10,996	135,953	110,351	25,602
Gateway NRA	-	-	-	106,779	93,143	13,636	106,779	93,143	13,636
Golden Gate NRA	55,449	32,020	23,429	11,480	24,642	(13,162)	66,929	56,662	10,267
Grand Canyon NP	-	-	-	60,483	53,798	6,685	60,483	53,798	6,685
Lake Mead NRA	-	-	-	82,375	-	82,375	82,375	-	82,375
Point Reyes NS	-	-	-	53,611	59,411	(5,800)	53,611	59,411	(5,800)
Santa Monica Mountains NRA	91,934	76,689	15,245	137,488	122,325	15,163	229,422	199,014	30,408
Statue of Liberty NM	-	-	-	139,425	134,806	4,619	139,425	134,806	4,619
Yellowstone NP	447,618	355,074	92,544	-	-	-	447,618	355,074	92,544
Yosemite NP	100,688	98,317	2,371	25,926	25,926	0	126,614	124,243	2,371
Zion NP	282,871	285,232	(2,361)	5,006	3,036	1,970	287,877	288,268	(391)
Totals	$1,264,667	$1,104,220	$160,447	$757,868	$586,451	$171,417	$2,022,535	$1,690,671	$331,864

*The amounts in the total column include all special use fees collected by the parks. However, the report discusses only the major special use activities for each park, and as such, the amounts may differ.

Legend:

NS = National Seashore
NP = National Park
NRA = National Recreation Area
NM = National Monument

United States Department of the Interior

TAKE PRIDE IN AMERICA

NATIONAL PARK SERVICE
P.O. Box 37127
Washington, D.C. 20013-7127

IN REPLY REFER TO

SEP 28 1995

September 28, 1995

MEMORANDUM

To: U.S. Department of the Interior
Office of Inspector General

Via: NPS Management Officer

From: Chris Andress
National Park Service

Subject: Comments on Draft Audit Report on Special Use Fees
E-IN-NPS-004-95

The following is a summation of the comments prepared by the National Park Service concerning the Draft Audit Report from your office on Special Use Fees, Assignment No. E-IN-NPS-004-95.

1. The cover memo, second paragraph: Per our discussion on 9/18/95, "carry-over" should not be used in the same sentence with "deficiency" since there is not concurrence that these funds can or cannot be carried over. The Department of Interior Solicitor's Office is currently researching the topic and an opinion will be forthcoming. Back in 1988 the Solicitor's staff counselled the NPS Budget Division to tell the parks to carry over such monies on the accounts of parks, which practice the draft audit report disputes. The NPS will agree to abide by the Solicitor's determination, or any future revisions thereof.

Also, during the 9/18/95 exit conference with OIG, it was agreed that the report would discuss the issue of including training as an overhead cost element. We feel that training needs immediate emphasis if NPS is to achieve effective compliance with published policy and with future policy revisions which are already in draft.

2. The following three comments deal almost exclusively with the recommendations section of the report:

a. The last recommendation dealing with unobligated funds still assumes that the Solicitor's Office will rule this as annual

money instead of no-year money. Should such a ruling take place, there will not BE any unobligated money at year end. This would be a great disruption to the program, should such a ruling take place, because it would suspend the use of monies collected during the latter portion of the fiscal year. Also, it would prevent the accumulation of funds needed for large purchases necessary to adequately operate the program (e.g. additional patrol craft for fishing - YELL; off-road vehicles at Assateague; etc.)

b. We have a continuing problem with the use of the word "revenues" in the report. In our minds, this implies "profit" and everything we are talking about is cost recovery, nothing more.

c. The remainder of the recommendations are mostly correct. The main point being, that the already circulating draft of NPS-53 (Special Park Uses), Release No. 2, addresses and corrects each of these points in detail and will clear up much of the confusion, especially the issue of recovering overhead costs.

d. The main problem with the special park uses program is the lack of training and we are disappointed that this report does not point that out, since more emphasis on training would help achieve better compliance with the provisions of NPS-53. Good training can even displace an out-of-date guideline. The National Park Service will be addressing this specific issue through Servicewide training on the revision to NPS-53.

3. The Superintendent of Golden Gate National Recreation Area offered the following comments regarding their portion of the OIG report:

a. On the whole, we find the information in the report to be accurate statements of the conditions at GOGA in 1994. However, we were just getting started in the program at that time, and everything that was found has been or is being corrected, especially the administrative deficiencies noted regarding collection and deposit of permit fees.

b. Re: page 11, the funds deposited in the donation account (the most damning point made by the OIG against GOGA - DY) were, in all cases, above and beyond permit fees that were collected for events or filming. The development of standard language for the letter tendering donations from filming activities was done after we had received a number of requests to provide guidance to donors ... The donations were not a part of negotiated fees or cost recovery of park expenses.

Attached to these comments are the comments we received directly from the Superintendent of Canyonlands National Park and the Assistant Chief Ranger of Lake Mead National Recreation Area.

The National Park Service has always operated under the long held belief that money collected from special park uses was no-year money. This understanding is unanimous throughout the National Park Service, including the Budget Office. This position goes back to approximately 1988 when a Solicitor's opinion was released through WASO stating that money collected under a cost recovery program is no-year money. We are attempting to locate written documentation of this position.

If you have any questions, please feel free to contact me at 202-208-4874.

F4215

Memorandum

September 27, 1995

To: Dick S. Young, WASO Special Use Coordinator

From: Superintendent, Canyonlands National Park

Subject: IG Audit Preliminary Findings -- Cost Recovery Program

We have had the opportunity to examine the preliminary report by the IG covering their audit of cost recovery programs at Canyonlands National Park. Several small, but important, points are worth mentioning.

At Canyonlands National Park we do not collect fees for backcountry camping and never have. While some may argue the point, if we did not issue a backcountry permit, visitors could camp anywhere, anytime and do so without paying a fee! But, since we feel we must issue a permit to regulate this activity and protect backcountry resources, we charge a fee under the cost recovery program for a **backcountry reservation and issuance of the permit.** We charge a reservation/permit issuance fee and not a backcountry camping fee. This was explained repeatedly to the auditors while here.

Page 4: Suggest....
"During our current review, we found that the Park Service was collecting and retaining special use fees for fishing permits and issuance of backcountry camping permits and related reservations under the authority of the Appropriations Act of 1994."

Page 6: Suggest....
"For example, prior to 1991, Yellowstone did not have the authority to collect fees for fishing activities, and Canyonlands did not have authority to collect fees for the issuance of backcountry camping permits and related reservations."

Page 7: Suggest....
" - Six parks issued permits for backcountry camping, but only Canyonlands collected fees for reservations and issuance of their permit, which totaled $63,530 in fiscal year 1994."

These small, but significant, changes will help us differentiate to others that we were not intending to charge for camping but for the service provided by our reservation staff and rangers who took time to explain regulations and issue a proper permit to ensure a safe and enjoyable visit. This was not a service that every visitor needed or enjoyed. Those who needed the service paid for it and not for the privilege to camp.

We hope these changes can be made in the final report. Please contact Chief of Interpretation, Larry Frederick if you have questions (801-259-3911, x 2140).

/signed/

Walter D. Dabney

September 28, 1995

MEMORANDUM

To : WASO RAD Special Park Use Coordinator

From : Assistant Chief Ranger, Special Park Uses, Lake Mead National Recreation Area

Subject : Comments on OIG Audit Report

The following are comments from Lake Mead National Recreation Area on the OIG Audit Report.

Page 10 paragraph 2.
Lake Mead's cabinsite leases are not a leaseback program. The lease program does not meet the definition contained in the footnote on page 1. The program was origionated under the authority of the US Bureau of Reclamation when it had jurisdiction over the lands and was continued by the Lake Mead Act (enableing legislation).

Lake Mead issued a contract prospectus to obtain the necessary appraisals prior to the expiration of the leases. No bidder responses were received. The prospectus is currently being readvertised at this time and will be kept updated to allow the anticipated increase to occur on renewal.

Page 20 paragraph 2
Of the $82,375 in revenue Lake Mead collected in 1994 $80,320 was from the cabin site lease program. Expendature of those funds was not allowed until 1995 when the Regional Office authorized use of the fees.

The remaining $2,055.00 revenue from Special Park Use permits was identified as funds which could be carried over according to directions received from WASO and WRO. The decision was made to allow this funding to accumulate until enough was available to fund significant equipment and or personal service costs related to the SPU program.

Sentence two of the paragraph is in error. The land lease program is not a "special use permit activity" since the permitting document is not a special use permit. The Field Solicitor in San Francisco issued an opinion in 1992 that the cabin site lease program qualified as a Special Park Use meeting the requirements of Public Law 101-512.

David E. Hoover

APPENDIX 6

STATUS OF AUDIT REPORT RECOMMENDATION

Finding/Recommendation Reference	Status	Action Required
1	Resolved; not implemented.	No further response to the Office of Inspector General is required. The recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation.

ILLEGAL OR WASTEFUL ACTIVITIES SHOULD BE REPORTED TO THE OFFICE OF INSPECTOR GENERAL BY:

Sending written documents to:

Calling:

Within the Continental United States

U.S. Department of the Interior
Office of Inspector General
P.O. Box 1593
Arlington, Virginia 22210

Our 24-hour
Telephone HOTLINE
1-800-424-5081 or
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Office of Inspector General
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STATEMENT OF MAT MILLENBACH
Deputy Director, Bureau of Land Management
Department of the Interior
on H.R. 2464, to amend Public Law 103-93
Subcommittee on National Parks, Forests and Lands
House Resources Committee
October 26, 1995

Thank you for the opportunity to testify today on H.R. 2464, which amends Public Law 103-93 to add additional lands to the Goshute Indian Reservation in the State of Utah. We support H.R. 2464 with a suggested amendment.

P.L.103-93, "The Utah Schools and Lands Improvements Act of 1993" authorized and directed the exchange of approximately 200,000 acres of Utah's institutional and trust lands located within the boundaries of National Parks, National Forests or Indian Reservations for certain Federal lands and interests. This exchange was to resolve Federal and State land management problems resulting from interspersed land ownership. H.R. 2464 amends the 1993 Act by placing approximately 8,000 acres of land located within the boundaries of the Goshute Indian Reservation in trust for the Tribe. Approximately 7000 acres of this land are currently owned by the State, and will become part of the Reservation upon acquisition by the United States.

The public lands to be placed in trust include four parcels of about 320 acres where both the surface and subsurface are managed by BLM and another 960 acres of reserved Federal minerals. The reserved minerals are not encumbered by any leases or claims of record. The four parcels under BLM surface management will be removed from an existing grazing allotment following passage of the bill. No reduction in authorized Animal Unit Months

(AUMs) for the grazing operator's permit will occur as a result of these lands being converted to trust status.

The Secretary of the Interior must compensate the State of Utah for the State lands transferred to the Secretary through an equal value exchange of Federal lands or interests as described in section 7 of P.L. 103-93. This is a reasonable proposal and one which we support.

The bill requires the Goshute Tribe to pay the appraisal costs for these lands. We support this provision.

The bill is silent with regard to liability. We suggest that the bill include a section that provides that, notwithstanding any other provision of law, the United States shall not incur any liability for conditions existing on the State lands prior to the acceptance of title by the United States.

I would be more than happy to answer any questions you might have.

Testimony of John A. Harja
Vice Chair, Board of Trustees
School and Institutional Trust Lands Administration
State of Utah

H.R. 2464
Before the Subcommittee on National Parks,
Forests and Lands
United States House of Representatives

October 26, 1995

Mr. Chairman, members of the Committee, I want to thank you for the opportunity to address you today concerning H.R. 2464, a bill to amend the "Utah Schools and Lands Improvement Act of 1993." The Board of Trustees of the School Trust Lands Administration has passed a resolution in support of the concept of this bill, subject to the conditions discussed below. I would indicate support for the language of the bill as written.

The "Utah Schools and Lands Improvement Act of 1993" is a very important piece of legislation to the trust and schoolchildren of Utah. The Act provided the framework for a proposed exchange of lands between the federal government and the school trust. The trust proposes to exchange approximately 575 separate tracts of lands, aggregating about 200,000 acres, to the federal government. In return, the trust would receive a couple of parcels of land, diversion of a royalty stream from mineral production in the state, and the right to produce coal until full value for the trust lands is received. The parties may also obtain resolution of disputes over value of the lands through the federal district court system.

The Act was signed on October 1, 1993. Since then, the parties have been engaged in a very involved process of arranging for (and paying for) the necessary appraisals of the lands. Obtaining "an appraisal" for the lands has turned out to be a very, very large project, involving the coordination of many experts. It is also, therefore, very costly, and the division of costs has the potential to be uneven, with the trust picking up the bulk.

The Act is the mechanism to resolve the problem of school trust lands captured within National Parks, National Forests and the Navajo and Goshute Indian Reservations. It was not intended as a mechanism to resolve other boundary concerns of the Parks, Forests or Reservations. However, notwithstanding the original purpose of the Act, the Board has considered the request by the Goshute Tribe found in H.R. 2464, and supports the request.

H.R. 2464 would add about 8,000 acres of trust lands found on the southern edge of the reservation to the process already under way for the larger exchange. The State and federal government would simply ask the existing team of appraisers, both surface and mineral, to look at the additional properties. The appraisers are already collecting comparables and the like, so the marginal cost of appraising these lands should be relatively small. Once appraised, and agreement on value reached, the trust would then be compensated out of the properties identified elsewhere in the Act.

Testimony of John A. Harja
H.R. 2464
October 26, 1995

The Board has two conditions to its support however. First, because this is not an inholding, the trust does not have the same impetus to deal with its lands as in the larger exchange. Therefore, the trust will not expend monies to appraise or otherwise determine the value of the lands covered by H.R. 2464. The trust will work to get the proposed exchange done, but will not pay for the direct costs of the appraisal, or any other work necessary to resolve the value of these lands.

Second, implementation of the Act has proven to be a hard fought exercise. There are folks on both the federal and state side that might like to seek other amendments to the Act. The Board does not want to see any of those other possible amendments attached to this bill.

Thank you for the opportunity to testify.

STATEMENT OF JOHN PAUL KENNEDY IN SUPPORT OF H.R. 2464
BEFORE THE COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON NATIONAL PARKS, FORESTS & LANDS
UNITED STATES HOUSE OF REPRESENTATIVES
October 26, 1995

My name is John Kennedy. I am General Counsel for the Confederated Tribes of the Goshute Reservation, which is headquartered at Ibapah, Utah. I have served as the Goshute attorney for 23 years. The Tribe has authorized me to appear today on its behalf in support of H.R. 2464, which is a bill amending P.L. 103-93, "the Utah Schools and Lands Improvement Act of 1993 (107 Stat. 995)."

The Goshute Tribe is a federally recognized Indian Tribe located on the border of Utah and Nevada about 60 miles south of Wendover, Utah. Approximately one-half of the Reservation is in Nevada and the other half is in Utah. The purpose of this bill is to correct some boundary problems along the southern edge of the Reservation in Utah. If enacted, this bill would lead to the transfer to the Tribe of about 8,000 acres of Utah State land and about 400 acres of public land administered by the Bureau of Land Management.

Public Law 103-93, which would be amended by this bill was enacted without opposition in 1993. That law transfers approximately 200,000 acres of Utah State land to the federal government in consideration for compensation in an amount equal to the appraised value of the transferred land. The 1993 law contemplated that Utah State lands within the reservations of the Navajo Tribe and the Goshute Tribe would be transferred to the United States to be held in trust for the respective Tribes.

At the time Public Law 103-93 was being considered by Congress, the Goshute Tribe asked that the southern boundary issued be resolved as a part of the legislation. To avoid slowing passage of the 1993 bill, however, the Goshute Tribe agreed to withdraw the southern boundary issue from consideration and concurred with the plan to bring the matter up later in the form of an amendment.

The "southern boundary issue" simply refers to a block of land lying along the southern boundary of the Utah portion of the Reservation. That block of land consists of approximately 8,000 acres of land in a very irregular shape. Because of the remote location and present configuration of that block of land, proper management of the land has been virtually impossible. The State, BLM, and the Tribe have been unable to prevent problems of trespassing and poaching. Fencing and patrolling have been costly and difficult.

The result of the proposed amendment would create a boundary with a much clearer definition. The lands would be held in trust by the United States for the benefit of the Goshute Tribe, which (with the help of the Bureau of Indian Affairs) will be able to regulate grazing and other use of the area.

The Tribe has met at length with representatives of the Utah Wilderness Coalition and has obtained the support of that group for this proposal. In addition, the local State county of Juab has also consented to the proposal. Finally, the Board of Trustees of the School and Institutional Trust Lands Administration of the State of Utah has adopted a resolution (No. 95-02) in support of this proposal. Copies of documents from each group are attached to this statement. Also attached is a copy of a map

depicting the subject area.

The Tribe has agreed, if this amendment passes, to be responsible for the cost of appraisal of the additional lands involved in this bill. Of course, the cash resources of the Tribe are extremely limited, and we hope that we will be able to get the assistance of others in this process.

Prior to this hearing, we have been informed that the Department of the Interior does not object to this bill. With the support of the State of Utah, conservation interests, and the local county along with that of the Tribe, we feel that this proposed legislation is now in a position to be favorably considered by this subcommittee and, hopefully, later by the full committee.

The Tribal Chairman, Harlan Pete, has prepared a short statement to be included in the record.

John Paul Kennedy
1385 Yale Avenue
Salt Lake City, Utah 84105
(801) 583-6170

STATEMENT OF HARLAN PETE IN SUPPORT OF H.R. 2464
BEFORE THE COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON NATIONAL PARKS, FORESTS & LANDS
UNITED STATES HOUSE OF REPRESENTATIVES
October 26, 1995

My name is Harlan Pete. I am the duly elected Chairman of the Tribal Council of the Confederated Tribes of the Goshute Reservation. I have lived almost my entire life on the Goshute Reservation. The Tribal Council has directed me to submit this statement on behalf of the Tribe in support of H.R. 2464, amending P.L. 103-93, "the Utah Schools and Lands Improvement Act of 1993 (107 Stat. 995)."

Our Reservation is located in a remote, but beautiful valley on the high dessert south and a little west of the Great Salt Lake. Somewhat over half of the 470 members of my Tribe actually live on the Reservation. Unemployment is a major problem for us, with 70% of those eligible to work residing on the Reservation being unemployed. Those who do have jobs work for the Tribal government or are generally involved in ranching.

The Tribe strongly supports this bill because it will help to clear-up a long-standing problem with our southern boundary. The corrections contained in H.R. 2464 will improve our ability to manage our lands and to prevent problems of trespass both in and out of the Reservation by livestock. Also, we hope to be better able to prevent poaching of game animals within our area. Thanks for your consideration of this bill. We appreciate your help.

Hon. Harlan Pete, Goshute Tribe, Ibapah, Utah 84034

The Utah Wilderness Coalition

The Foundation for the
Utah Wilderness Coalition
PO Box 520974
Salt Lake City, UT 84152-0974

Telephone: 801•486•3161
Fax: 801•486•4233

MEMBER ORGANIZATIONS

American Hiking Society
American Rivers
American Wildlands
Arizona Whitewater Association
Arizona Wilderness Coalition
Association for the Tree of Life
Colorado Environmental Coalition
Colorado Outward Bound School
Defenders of Wildlife
Desert Protective Council
Earth Island Institute
Forest Trust
Four Corners' Wilderness Workshop
Friends of the Dixie National Forest
Friends of the Earth
Friends of the River-Colorado Plateau
Grand Canyon Trust
Idaho Conservation League
National Outdoor Leadership School
National Parks and Conservation Association
Natural Arch and Bridge Society
Nevada Outdoor Recreation Association
New Mexico Wilderness Coalition
Oregon Natural Desert Association
Project Lighthawk
Slickrock Country Council
Southern Utah Wilderness Alliance
S'PLORE (Special Populations Learning Outdoor Recreation and Education)
Uintah Mountain Club
Utah Chapter Sierra Club
Utah Mountain Bike Association
Wasatch Mountain Club
The Wilderness Society

FOUNDED IN 1985

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John P. Kennedy
General Counsel,
Goshute Tribe
1385 Yale Avenue
Salt Lake City, UT 84105

October 27, 1994

Dear Mr. Kennedy:

The Utah Wilderness Coalition (UWC) has been holding discussions with representatives of the Goshute Business Council concerning the management of lands adjacent to the southern boundary of their reservation in western Utah. The Coalition understands that the tribe is concerned about the occurrence of trespass from adjacent Utah state lands. It is further understood that the tribe seeks to resolve the uncertainty associated with the southern boundary of its reservation and improve its ability to control and protect tribal lands. The state lands in question are located in Range 19W, Township 12S, including all or part of Sections 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36 and Section 2 of Township 13S.

The Utah Wilderness Coalition has proposed federal wilderness designation for 90,200 acres of federal lands in the Deep Creek Range bordering the Goshute Reservation. The UWC proposal for the Deep Creeks also includes some of the state lands which the Goshute Tribe seeks to acquire. The Goshute Business Council has expressed its support for the UWC wilderness proposal for the Deep Creek Range. Furthermore, the Goshute Business Council has resolved "to maintain, manage, and preserve" the wilderness character of the Utah state lands it seeks to acquire adjacent to the southern border of its reservation (Confederated Tribes of the Goshute Reservation, Resolution No. 93-G-16, June 9, 1993).

The Utah Wilderness Coalition appreciates the Goshute Business Council's recognition of the value of wilderness preservation for the lands and resources of the Deep Creek Range. Having considered the purpose and intent of the Goshute Tribe in acquiring the state lands in question, the Board of Directors of the Utah Wilderness Coalition has voted to support the tribe's efforts to do so.

Any questions about the Coalition's position in this matter should be directed to Lawson LeGate, Southwest Regional Representative, Sierra Club at 801/467-9294.

Sincerely,

Rudy Lukez, Chair
Utah Wilderness Coalition

Juab County

The "Key" County of Utah

July, 18 1994

Juab County Center
146 North Main
Nephi, Utah 84648

Board of
Commissioners:
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Chairman
Gordon M. Young
Joseph A. Bernini
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Administrator
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Clerk/Auditor
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Economic Development
Glenn W. Greenhalgh
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Nephi Precinct
Sharla T. Williams
Tele. (801) 623-0869

Justice Court Judge
Eureka Precinct
Charles H. Blouch
Tele. (801) 433-6346

Recorder
Craig J. Sperry
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Road Department
Sherman O. Peterson
Tele. (801) 623-1593

Sheriff
David H. Carter
Tele. (801) 623-1344

Treasurer
Joyce C. Pay
Tele. (801) 623-0096

John Paul Kennedy
1385 Yale Avenue
Salt Lake City, Utah 84105

Re: Goshute Lands

Dear Mr. Kennedy:

You have sent to the Juab County Attorney a copy of the proposed amendment to the Utah Schools and Land Improvement Act of 1993 (Pub. L. 103-93) along with a map showing the area of lands which would be transferred from the State to the federal government in trust for the Goshute Tribe.

Having reviewed these matters, Juab County has no objection to the proposed amendment.

Very truly yours,

Joseph Bernini
Commission Chairman

CC: Kevin S. Carter, Assistant Director
Division of State Lands and Forestry
State of Utah, Department of Natural Resources
3 Triad Center, Suite 400
355 West North Temple
Salt Lake City, Utah 84180-1204

RESOLUTION
No. 95-02

The Board of Trustees of the School and Institutional Trust Lands Administration hereby adopts a resolution concerning a proposed amendment to the Utah Schools and Land Improvement Act of 1993 (Pub. L. 103-93) as it pertains to the Goshute Indian Tribe.

WHEREAS, on October 1, 1993 the President of the United States of America signed the "Utah Schools and Land Improvement Act of 1993" which provides for the exchange of certain lands within the State of Utah, between the state and the federal government, and for other purposes; and

WHEREAS, said Act provides for the acquisition of approximately nine hundred eighty acres of surface and subsurface estate, and an additional four hundred and eighty acres of subsurface estate held in trust by the State of Utah for the common schools, and, once acquired declares those lands part of the Goshute Indian Reservation in the State of Utah; and

WHEREAS, the Goshute Indian Tribe now desires to similarly acquire and add an additional eight thousand acres of surface and subsurface estate held in trust by the State of Utah to the Goshute Indian Reservation in the State of Utah; and

WHEREAS, to secure these additional lands in trust for the Tribe, the Goshute Indian Tribe proposes an amendment to Pub. L. 103-93 for the consideration of the Congress of the United States of America.

THEREFORE, BE IT RESOLVED, that the Board of Trustees of the School and Institutional Trust Lands Administration, exercising its statutory role, supports the proposed amendment to the "Utah Schools and Land Improvement Act of 1993" (Pub. L. 103-93) to provide for the exchange of certain trust lands adjacent to the Goshute Indian Reservation, as more specifically depicted on the map entitled "Additional Utah-Goshute Exchange," dated July 1, 1994, subject to the following conditions:

1. The costs of the necessary appraisal of the trust lands to be exchanged shall be borne by the Goshute Indian Tribe and/or the federal government.

2. That the amendment presented to Congress shall be in essentially the same form as put before this Board and will not be further amended to include any substantive changes to the process and procedures contained in Pub. L. 103-93.

Adopted this 26th day of September, 1995.

Ruland J. Gill, Jr.
Chair, Board of Trustees
School and Institutional Trust Lands
Administration

APPOINTMENT AFFIDAVITS

Director, National Park Service (Position to which appointed) — 6/1/93 (Date of appointment)

Interior (Department or agency) — NPS (Bureau or Division) — Washington D.C. (Place of employment)

I, Roger G. Kennedy, do solemnly swear (or affirm) that—

A. OATH OF OFFICE

I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

B. AFFIDAVIT AS TO STRIKING AGAINST THE FEDERAL GOVERNMENT

I am not participating in any strike against the Government of the United States or any agency thereof, and I will not so participate while an employee of the Government of the United States or any agency thereof.

C. AFFIDAVIT AS TO PURCHASE AND SALE OF OFFICE

I have not, nor has anyone acting in my behalf, given, transferred, promised or paid any consideration for or in expectation or hope of receiving assistance in securing this appointment.

(Signature of appointee)

Subscribed and sworn (or affirmed) before me this 1st day of June, 19 93,

at Washington, D.C. (City)

(Date)

[SEAL]

(Signature of officer)

(Title)

Commission expires _____
(If by a Notary Public, the date of expiration of his/her Commission should be shown)

NOTE.—*The oath of office must be administered by a person specified in 5 U.S.C. 2903. The words "So help me God" in the oath and the word "swear" wherever it appears above should be stricken out when the appointee elects to affirm rather than swear to the affidavits; only these words may be stricken and only when the appointee elects to affirm the affidavits.*

NSN 7540-00-634-4015

The following information is provided in response to Mrs. Chenoweth's questions regarding Shenandoah National Park and an August 9, 1988, letter between Superintendent Wade and Joe Davis of the Conservation Fund.

The letter in question was in direct response to a letter dated August 3, 1988, from Mr. Davis, in which Mr. Davis requested such information as was provided in the August 9, 1988 reply. The response, and actions related thereto, are consistent with provisions of Shenandoah National Park's General Management Plan (GMP), which states, in part:

> "Donations of land and easements will require many separate, voluntary, private actions. As a form of encouragement, a general informational program will be undertaken to let adjacent landowners, park neighbors, conservation organizations, corporations, philanthropic foundations, and any other interested individuals and groups know of Shenandoah's mission and needs. Such a program will describe how donors can assist the park's long-range conservation..."

Attached are pages 55-61 of the GMP, from which this was taken. The Plan was approved in 1983 and went through all compliance and public participation and review requirements prior to approval.

Consistent with the GMP, it is appropriate to identify areas where there are conflicts and critical needs, to make that public information, and to pass such information on to interested parties. Providing information that might come to the National Park Service from "behind the scenes" to interested parties regarding the availability of adjacent lands, is what is intended by the GMP. As properties in areas of concern become available for acquisition we work with the landowners and other groups to try and resolve the problems.

Access and resource protection are critical issues on all sides of Shenandoah National Park. The areas identified in the August 9 letter involved both access and resource protection issues. To date, no property has been acquired by the National Park Service at any of the areas identified in the August 9, 1988, letter. The issues associated with these areas are still of concern and interest to the Park, however some are of a lesser priority today than when they were identified in 1988. In the case of Old Rag the situation has gotten worse since 1988. We are actively working with a number of groups and individuals at Old Rag to resolve the conflicts between adjacent property owners and park visitors.

The properties identified in the August 9, 1988, letter remain in private ownership. At Old Rag we are actively working to resolve the access problem. Other areas have been identified since 1988 where access is a problem and we are working with interested parties to resolve those problems. At Shenandoah National Park, the National Park Service has no authority to condemn private property nor the authority to purchase land, even from willing sellers. Land can be added to the park only through donation. Therefore, where access and resource protection problems occur and private property is involved we must work with interested parties, which includes both private landowners and third parties to resolve problems.

general management plan
development concept plan

january 1983

NATIONAL PARK / VIRGINIA

LAND PROTECTION

As stated earlier, Shenandoah's land base includes only 37.5 percent of the acreage originally authorized by Congress. Since the current boundary is long, irregular, and unrelated to topographc features, problems have developed and are expected to continue.

The park does not have authority to address these issues by purchasing private land. This plan, based on public response, focuses on continuing use of existing voluntary tools of donation and equal-value exchange within the authorized donation boundary. This approach is not expected to increase the amount of land in federal ownership to any significant extent. The emphasis will be on improving situations around the current perimeter of NPS ownership. Shenandoah's land base will continue to consist of lands owned in fee, reserved rights-of-way, and scenic and access easements on adjacent private land as shown on the Land Protection map. The boundary within which donations may be accepted will remain at 521,000 acres (210,800 ha), as authorized by the Congress in 1926.

Because donation and exchange programs depend on voluntary action by landowners, it is not possible to predict when and where transactions will occur. However, the purpose of accepting donations and arranging exchanges of land would be, to the greatest extent possible, to

- protect water quality, vegetation, and wildlife
- provide the land base needed for direct visitor use, recreation, administrative facilities, and resource protection
- maintain or relocate trails, trail accesses, and trail resources
- avoid where possible degradation of scenic vistas within the authorized boundary of the park and contribute to scenic values in the region
- improve the relationship of the land base to topographic features and public roads
- improve ability to maintain and manage perimeter public facilities

While donation and exchange can help solve problems anywhere within the authorized boundary, the following map indicates those points around the current perimeter where special efforts will be directed to accomplish the objectives of this plan. The National Park Service will consult with local governments on proposed donations/exchanges of private land. Land or specific interests in land can be donated to the United States. Donations are gifts and may be considered as charitable contributions providing significant tax benefits for property owners. On donations of land in fee simple the National Park Service may permit landowners to continue their use and occupancy of the land and facilities for a specific period of years, or possibly their lifetimes. Provisions will be drawn concerning the appropriate reserved use and any permissible alteration to existing improvements on the property. In this way the quality of the property may be assured until it comes into complete federal custody.

Although donations may be accepted anywhere within the authorized boundary, emphasis will be placed on tracts adjacent to land now under NPS jurisdiction. Such transactions will be primarily to improve efficiency in management, provide for public recreational use, or generally improve protection of park resources. Nonadjacent tracts within the authorized boundary also may be accepted to protect important resources or to be used in future exchanges. Proposed donations will not be accepted if they would place unreasonable burdens on administration, management, and enforcement.

Exchanges will involve the equal-value trade of properties in fee. Where possible and appropriate, restrictions on development and use will be placed in the deed conveying land out of federal ownership. Such restrictions will be designed to protect historic, natural, and scenic values and protect adjacent landowners from incompatible uses.

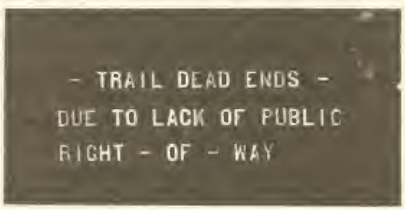
Equal-value exchange will be undertaken to complete and/or improve resources currently protected and to improve the relationship of the perimeter to existing features and nearby private use. Proposed exchanges that could place undue administrative and protection burdens upon park management will not be undertaken.

It is remotely possible that easements may be exchanged; this will occur only on single-owner property. As land uses and development patterns continue to change within the Blue Ridge Mountains, either the National Park Service or a property owner may desire to change the actual configuration of easement coverage, providing protection to a different area or relocating an existing or future access.

In order to simplify administration and reduce operational difficulties for the National Park Service and local governments in the area, three situations may be resolved by deleting some park lands. The first action would be the trade of small parcels of land with the Virginia Department of Highways to improve maintenance and jurisdiction of state roads through or at the perimeter of the park. The second would be to reassign approximately 10 acres of park land currently used by the U.S. Custom Service, Canine Enforcement Training Center (under a special use permit) to the Department of Treasury, U.S. Custom Service. The third would be the transfer of land along and under Criser Road to the city of Front Royal. Federal legislation would be required before any of these transactions can be undertaken.

Shenandoah National Park currently leases 2 acres (0.81 ha) of land for visitor parking in Weakly Hollow. The policy of extremely limited leasing will continue wherever and whenever it is advantageous but only as a temporary measure for small amounts of land and for limited periods of time.

Donations of land and easements will require many separate, voluntary, private actions. As a form of encouragement, a general informational program will be undertaken to let adjacent landowners, park neighbors, conservation organizations, corporations, philanthropic foundations, and any other interested individuals and groups know of Shenandoah's mission and needs. Such a program will describe how donors can assist the



LAND PROTECTION

(a) Shenandoah is well known for its spectacular views from Skyline Drive. Much of what is seen is beyond the park boundary.

(b) Nearby development of second homes threatens to encroach upon views. The plan identifies the most urgent problem points where views need to be protected and encourages existing voluntary tools of donation and land exchange.

(c)(d) Public trail access from the perimeter of the park is not guaranteed at many popular trailheads. The plan identifies these problem points and encourages voluntary cooperation or donation of access easements from park neighbors.

park's long-range conservation of the Blue Ridge Mountains and improve visitor use. Reserved use and occupancy and possible tax advantages for donors will also be outlined (see appendix H).

While emphasis will continue to focus on problem points, cooperation with the local surrounding communities will continue. The National Park Service will encourage the consideration of scenic, natural, cultural, and public use values and opportunities through comment on specific community proposals and general regional concerns.

Payments in lieu of taxes, depending on appropriations, will continue to be provided to local counties for Shenandoah's existing land base and will be extended to cover any new lands acquired by donation or exchange. The amount of payment will be in accordance with public laws 94-565 and 95-469.

Surveys for endangered or threatened plant or wildlife species will be conducted on all deleted lands. Similarly, surveys and other actions will be taken to comply with historic preservation policies and laws.

Relocation of people whose land is donated or exchanged is governed by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, PL 91-646.

Summarily, the program established for Shenandoah's land base over 50 years ago will continue. Expansion and modification within the donation boundary and the protection of the Blue Ridge Mountains will depend heavily upon the concern and goodwill of citizens, groups, and public agencies of the local area, state, and outside Virginia. The National Park Service will protect its existing land, easements, and new donations. Most of the land between the existing perimeter and the authorized donation boundary will remain outside federal ownership or easement protection, and the National Park Service will work cooperatively with local communities to help maintain the values shared by all.

United States Department of the Interior

OFFICE OF THE SOLICITOR
Washington, D.C. 20240

JUN 9 1992

Mr. Martin J. Fitzgerald
Special Assistant to the General Counsel
General Accounting Office
Washington, D.C. 20546

Dear Mr. Fitzgerald:

This responds to your letter of May 8, 1992, to Secretary Lujan in which you ask the Secretary to provide you with a discussion of the legal authority for a particular provision contained in the National Park Service (NPS) concession contract for Sequoia and Kings Canyon National Parks (NPS Concession Contract No. CC-WASO-002-72, as amended, the "Contract)," entered into with Guest Services, Inc. (the "Concessioner").

The provision in question is contained in subsections 2(b)(2)-(9) which calls for the Concessioner to establish a "Fund for Improvements" ("Concessioner Fund provision") for the repair, maintenance and improvement ("improvements") by the Concessioner of certain Government buildings. The Concessioner Fund provision was added to the Contract by its Amendment No. 1 dated October 3, 1989. Your letter particularly asks us to address the implications of 16 U.S.C. §452 ("§452"), 40 U.S.C. §303b ("§303b"), and 16 U.S.C. §20f in connection with the legal authority for the Concessioner Fund provision.

Before doing so, however, we would like to point out that the Concessioner Fund provision is not unique among NPS concession contracts. A number of other NPS concession contracts contain similar provisions. Although not directly bearing upon the authority for such provisions, we also note that several NPS concession contracts which contain similar provisions have been submitted to the Congress for a sixty day review period prior to NPS execution as required by 16 U.S.C. §17b-1.

Turning to the Contract, its Concessioner Fund provision in general terms provides that the Concessioner is to create and manage a fund in a separate bank account the monies of which are to be used by the Concessioner to undertake improvements to Government Improvements (i.e., NPS constructed buildings assigned to the Concessioner for use in its concession operations.) The Concessioner is to deposit into the account on a monthly basis an amount equal to the fair rental value of the buildings as

previously established by the Contract. Concomitantly, the obligation under the Contract for the Concessioner to pay building use fees (money rent) in this amount was extinguished by Amendment No. 1. The Concessioner is to undertake particular projects regarding assigned Government buildings with funds from the account at the direction of NPS and is to account for such expenditures with copies of receipts, billings and other documentation satisfactory to NPS. The Concessioner may charge the account up to 10% of project costs for reasonable administrative costs directly associated with carrying out individual projects. At the termination or expiration of the Contract, or in other specified circumstances, the balance remaining in the account is to be expended for projects at the direction of NPS or is to be transferred to a successor concessioner, if any, or otherwise liquidated at the direction of NPS.

To summarize, the Fund provision provides an accounting mechanism whereby funds of the Concessioner necessary for the Concessioner to provide non-monetary compensation in the form of required improvements to assigned Government buildings are segregated and expended by the Concessioner subject to NPS approval on a project by project basis. In this regard, we believe that your letter to us contains a technical error as it states that the account contains the "monthly fee paid by [the Concessioner] for the use of government-owned park improvements." Rather, the Concessioner Fund provision relieved the Concessioner of paying building use fees in consideration of assuming non-monetary obligations. In other words, the Concessioner is not paying "rent" into the Fund, but, rather, is depositing into the account its own money which is needed to fulfill its non-monetary obligations under the Contract.

The authority for the Concessioner Fund provision is contained in 16 U.S.C. §20 et seq., the Concessions Policies Act of 1965 (the "Act".) Under the Act, the Secretary is authorized "to take such action as may be appropriate to encourage and enable concessionaires to provide and operate facilities and services which he deems desirable for the accommodation of visitors" in areas of the national park system. 16 U.S.C. §20a. Among other matters, the Act contemplates that concessionaires will provide from their own funds "investment in structures, improvements, equipment, supplies, and other tangible property" in connection with such facilities and services. 16 U.S.C. §20b. In addition, a concessioner is entitled to obtain a "possessory interest" (compensable interest) in certain structures, fixture or improvements it makes within park areas. 16 U.S.C. §20e. Finally, Section 7 of the Act, 16 U.S.C. §20f ("Section 7"), specifically authorizes the Secretary, as discussed in detail below, to lease government-owned buildings or lands to concessionaires in connection with concession contracts for non-monetary consideration by making inapplicable to such leases the provisions of §303b.

In summary, the Secretary is authorized by the Act to enter into concession contracts which provide for, among other matters, expenditure of concessioner funds for park improvements and,

specifically, non-monetary consideration for the use of government-owned buildings and lands by the concessioner. We consider that the Concessioner Fund provision of the Contract represents an appropriate mechanism to implement this authority as discussed further below.

Your letter asks us to discuss several particular legal issues regarding the Concessioner Fund provision. As a means to address these issues and others, we have developed the following questions and responses.

Question 1: Does Section 7 provide Congressional authorization for the use of non-monetary consideration with respect to buildings and lands assigned to NPS concessionaires?

Response: Yes. Section 7 was included in the Act by Congress for the specific purpose of making clear that NPS could obtain non-monetary consideration for use of buildings and lands assigned to concessionaires. (The United States Code title for this provision is "Use of non-monetary consideration in leases of Government Property.") In fact, inclusion of the provision was prompted by the Comptroller General in 49 Comp. Gen. 493 (1982) in which the Comptroller General held that NPS was not authorized to include in concession contracts provisions calling for the repair and maintenance of Government property by concessionaires because of the prohibitions of §303b. The Comptroller General concluded his opinion by stating that if the Secretary wished to have "the costs of repairs and improvements financed by concessionaires under such contractual arrangements rather than through direct appropriations by Congress, specific statutory authority therefor should be obtained by Congress as contemplated by 40 U.S.C. §303b."

This is just what occurred in the form of Section 7 of the Act. The legislative history of the Act is replete with statements to the effect that Section 7 was intended to authorize NPS to continue its practice of accepting building improvements from concessionaires in lieu of cash rent in response to the 1962 Comptroller General opinion. See, e.g. 89 Cong. Rec. 22787 (1965); S. Rep. No. 765, 89th Cong., 1st Sess. 5 (1965). The Comptroller General commented upon this fact in a letter of April 22, 1964, to the Committee on Interior and Insular Affairs, which was considering the legislation which became the Act. H.R. Rep. No. 1426, 88th Cong., 2d Sess. (1964). The Comptroller General stated that Section 7 "would exempt concession contracts from the provisions of ...40 U.S.C. §303b..., and thereby permit the Park Service to continue its practice of reducing franchise fees charged concessionaires upon the condition that they construct or make other capital improvements on Government owned property." Id. at 20. The Comptroller General was opposed to NPS having this authority but nonetheless certainly recognized it as such.

Question 2: Assuming that Section 7 authorizes NPS to contract with concessionaires for non-monetary consideration for the use of Government buildings in the form of improvements to the buildings, is the Concessioner Fund provision a proper implementation of this authorization ?

Response: Yes. As discussed above, the Concessioner Fund provision is an accounting mechanism whereby Concessioner funds necessary for the Concessioner to provide non-monetary consideration in the form of improvements to Government buildings are segregated by the Concessioner in a Concessioner bank account and expended by the Concessioner for such purposes at the direction of NPS. Section 7, as it does not prescribe or limit the manner in which its authorization is to be implemented, provides NPS reasonable administrative discretion in this regard and authorizes use of contract provisions which assure proper procedures for accountability. (See, e.g., 42 Comp. Gen 467 (1963)). An obvious concern with non-monetary consideration is the possibility that the consideration will not in fact be forthcoming in whole or part because of the lack of precise funding mechanisms or reviewable accounting procedures. NPS, we believe, through the Concessioner Fund provision, has effectively dealt with this potential problem in a manner consistent with its administrative authority under Section 7.

In this regard, your letter notes that expenditures from the account are at the direction of NPS. This is necessarily the case. NPS (acting for the Secretary of the Interior) is mandated to preserve the resources of the national park system. 16 U.S.C. §1 et seq. This mandate extends to all construction activities in areas of the national park system, including repairs, maintenance and improvements made to Government-owned buildings even when those buildings are utilized by a third party. 16 U.S.C. §20. NPS concessionaires have constructed and improved thousands of buildings in areas of the national park system with their own funds as authorized by the Act. Nonetheless, no such construction or improvements are undertaken without the specific approval of NPS as necessary and appropriate for accommodation of park visitors. The Contract (in Section 4(b)), in fact, contains these requirements independent of the Concessioner Fund provision. We consider it legally mandatory that NPS have contract authority to decide what improvements are made to buildings or lands in park areas, irrespective of ownership of buildings or the source of the funds. 16 U.S.C. §1a-1.

Question 3: Does §303b, §452 or 31 U.S.C. §3302(b) ("§3302(b)") require that amounts paid into the account established pursuant to the Concessioner Fund provision by the Concessioner be deposited instead in the United States Treasury as miscellaneous receipts of the United States?

Response: No. §303b requires that, unless otherwise specifically provided by law, the leasing of properties of the United States shall be for money consideration only and that the money derived from such leases shall be deposited into the Treasury as miscellaneous receipts. As discussed above, however, Section 7 of the Act specifically exempts NPS concession contracts from the application of this law.

With respect to §452, it provides that all revenues of the national parks shall be covered into the Treasury to the credit of miscellaneous receipts. §3302(b) (formerly 31 U.S.C. §484) provides that an official of the Government receiving money for the Government from any source shall deposit the money in the Treasury as soon as practicable without deduction for any charge or claim. Both these statutes require that money received by the United States be deposited in the Treasury unless the agency has statutory authority to retain the funds. 62 Comp. Gen. 678 (1983).

In this regard, we consider that the Section 7 exemption from §303b provides by implication a specific statutory exemption from §452 and §3302(b) as well. Congress hardly could have intended to grant NPS an exemption from the §303b requirement for depositing lease payments in the Treasury (in circumstances where non-monetary consideration is received instead of cash) while at the same time intending that such payments be deposited in the Treasury by virtue of the operation of other statutes. Put another way, if the Fund provision is a proper implementation of the non-monetary consideration authority provided by Section 7, it must be considered as consistent with § 452 and §3302(b) to the extent otherwise applicable.

We would also note, however, that under the Concessioner Fund provision, the Government does not in fact "receive" any money from the Concessioner (thereby not triggering, even if otherwise applicable, §452 and §3302(b)). Rather, the Concessioner provides non-monetary consideration to the Government in the form of improvements to Government buildings. NPS under the Contract (as amended) has no right to receive from the Concessioner cash rent for the use of Government buildings. The fact that funds of the Concessioner necessary to fulfill its non-monetary obligations are segregated by the Concessioner in a Concessioner bank account does not mean that the Government "receives" or is entitled to "receive" cash from the Concessioner. The money from the account may only be spent by the Concessioner to make improvements to Government buildings utilized by the Concessioner. NPS has no right under the Contract to take money from the account or to direct that money be deposited elsewhere than into the account (except upon Contract termination or in other limited circumstances.) Neither §452 nor §3302(b), of course, requires, or could require, NPS to deposit into the Treasury funds to which it has no legal right. (We would consider, however, that in circumstances where NPS has authority under the Concessioner Fund provision to direct the balance of monies in the account to unspecified disposition, i.e., upon

Contract termination, NPS would be required by §452 and/or §3302(b) to cause the balance to be deposited in the Treasury.)

Question 4: How is the Concessioner Fund provision distinguishable from the circumstances at issue in 35 Comp. Gen. 813 (1955) and 64 Comp. Gen. 217 (1985)?

Response: In 35 Comp. Gen. 813 (1955) ("GSA I"), the Comptroller General reviewed a "Reserve for Equipment Account" contained in a General Services Administration ("GSA") contract for food services for government employees. Under this reserve account, the contractor was required to deposit into a bank account opened by the Contracting Officer (GSA) certain percentages of the contractor's gross receipts. The funds in the reserve account were used for the replacement or major repair of government-owned equipment and the purchase of additional equipment with the approval of GSA.

The Comptroller General held the reserve account to be in violation of 40 U.S.C. §484 and §303b. However, GSA did not have a statutory exemption such as that contained in Section 7. The opinion, accordingly, was premised upon the proposition that a reserve account mechanism cannot be used as means to avoid otherwise applicable requirements to deposit government receipts into the Treasury. This, of course, makes the opinion's reasoning generally inapplicable to the Concessioner Fund provision. We also note, however, as discussed further below, that the GSA I reserve account was opened by GSA rather than by the contractor in contrast to the Concessioner Fund provision. The Comptroller General did not suggest in GSA I that even this type of reserve account would be improper if GSA had a statutory exemption from §303b. We therefore do not consider that GSA 1 suggests in any manner that a contractor opened reserve account such as the one called for by the Concessioner Fund provision is improper where a statutory exemption to §303b exists.

In 64 Comp. Gen. 217 (1985) ("GSA II"), the Comptroller General reviewed a GSA contract clause under which a food services contractor (coincidentally, Guest Services, Inc.) was to credit a certain percentage of its income to a "Reserve for Purchase and Replacement of Government-Owned Equipment." This reserve account, however, was not established as a separate bank account but rather as a "reserve in the accounting system" of the contractor to which funds of the contractor were to be credited but not deposited formally. Nonetheless, funds credited to this account could only be expended by the contractor with the approval of GSA for replacement of government-owned equipment which was to be the property of GSA. Upon the termination of the contract, the balance in the reserve account was to be paid to GSA in cash or assets.

The Comptroller General in GSA II concluded that this reserve account did not violate §3302(b) (formerly 31 U.S.C. §452) because the account constitutes "a mere book-keeping entry in the internal accounts" of the contractor as opposed to the "actual transfer of

funds into a bank account for the future use of the Government" which GSA II suggests was found unacceptable in the circumstances of GSA I. GSA II also holds that the GSA II reserve account did not violate §303b because of the "unique nature of the GSA-GSI agreement" and a conclusion in a prior GAO audit to the effect that the agreement was a license not a lease subject to §303b.

To summarize, in GSA I the Comptroller General held as unlawful a GSA special account where there was no exemption from §303b. In GSA II, however, the Comptroller General held as lawful an account which was a book-keeping entry of the contractor rather than a separate bank account (and found that §303b did not apply).

The Concessioner Fund provision account may be described as a hybrid of the GSA I and II accounts as it is a separate bank account rather than a book-keeping entry but is an account of the Concessioner, not the Government. As such, it does not directly fall within the analysis of either GSA I or GSA II. The other significant distinction between the Fund provision and the GSA I and II accounts is, of course, the affirmative exemption to §303b provided by Section 7 for NPS concession contracts but not present in either GSA I or GSA II. In other substantive respects, all three accounts are the same, that is, they are mechanisms whereby a contractor segregates a portion of its funds in an account which is to be used by the contractor, subject to Governmental approval, to provide funds to pay for non-monetary contract consideration to the government in the form of improvements to Government property. The monetary consequences of the three types of accounts insofar as they relate to the Government's interest in the money involved are the same.

For these reasons, we do not interpret GSA II as precluding the Concessioner Fund provision, that is, as precluding the establishment of a bank account by a contractor for segregation of contractor funds to be drawn on by the contractor to pay for non-monetary lease consideration where the federal agency has a specific statutory exemption from §303b.

We also point out that an opposite conclusion would lead to an anomalous result. NPS, if GSA II was interpreted to preclude the Fund provision, would be required to seek amendment of the Concessioner Fund provision to make the Concessioner's bank account merely an accounting entry on the books of the Concessioner. Other aspects of the Fund provision would remain as consistent with what was allowed in GSA II, but, the Government would lose what appears to us to be a significant benefit, the added accountability for audit and oversight of non-monetary consideration provided by a separate bank account. In this connection, we suggest that mere book-keeping entries of a government contractor are far more susceptible to improper manipulation or abuse by a contractor than is a separate bank account and that tracing and auditing deposits to and expenditures from a separate bank account would be substantially more effective than with mere book-keeping entries.

In other words, an overly broad interpretation of GSA II as applied to the Fund provision, would, in our opinion, result in the anomaly of increased prospects for fraud and abuse in connection with NPS concession contracts with no offsetting benefit to the Government. In this regard, we note a May 21, 1992, letter to the Secretary from the Comptroller General which, among other matters, recommends increased NPS scrutiny and oversight of concessioner set-aside account (such as the Concessioner Fund provision), a goal which, in our opinion, would be frustrated by limiting such accounts to mere book-keeping entries.

Question 5: Assuming that there is legal authority for the Concessioner Fund provision in general, what is the legal authority for its particular provision which authorizes payment from the account to the Concessioner of up to 10% of project costs for administrative expenses of the Concessioner?

Response: We consider that the authority of NPS to contract for non-monetary consideration in concession contracts, specifically, to obtain improvements to government buildings in consideration of use of assigned buildings, authorizes NPS to recognize in computing the amount of such non-monetary consideration the related administrative costs of the concessioner. It is beyond dispute, we believe, that when an NPS concessioner undertakes an improvement project it incurs not only hard expenses for construction (brick and mortar, engineering, etc.), but also necessarily incurs expenses related to the administration of the construction work (management time, office overhead, etc.). In short, such administrative costs are part of any construction project and we see no reason why they should not be recognized in calculating non-monetary consideration to the Government, and, accordingly, why they should not be included in the Concessioner Fund provision. The same result could be achieved by simply reducing the Concessioner's deposits into the account by an appropriate amount, thereby indirectly incorporating administrative expenses into project costs. This, however, would be less desirable from an audit perspective for generally the same reasons set forth above in connection with the benefits of a special bank account as opposed to mere book-keeping entries.

Your consideration is appreciated. If there are any questions or if we may be of further assistance, please call Mr. Lars Hanslin of my staff at 208-7957.

Sincerely yours,

Daniel G. Shillito
Associate Solicitor
Conservation and Wildlife

MEMORANDUM OF UNDERSTANDING

between

the

THE UNITED STATES DEPARTMENT OF AGRICULTURE
Forest Service

the

THE UNITED STATES DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers

and the

THE UNITED STATES DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Bureau of Reclamation
Fish and Wildlife Service
National Park Service

On

CONCESSIONS[1] MANAGEMENT

This Memorandum of Understanding (MOU) is entered into by and among the United States Department of Agriculture, Forest Service; the United States Department of the Army, U.S. Army Corps of Engineers; and the United States Department of the Interior, Bureau of Land Management, Bureau of Reclamation, Fish and Wildlife Service, and National Park Service. Collectively, the parties to this MOU shall be referred to as Cooperators.

I. PURPOSE

The purpose of this MOU is to promote interagency consistency and cooperation in concessions management. The Cooperators shall work together to achieve common goals. These goals include:

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[1]For the purposes of this Memorandum Of Understanding, a concession is the privilege of operating a business for the provision of recreation services, facilities, or activities on Federal lands or waters.

1. Introducing more competition into concessions programs first to improve the quality of services provided to the public and second to ensure a fair return to the Federal government;

2. Improving business relations and fostering interagency cooperation by making concessions policies more uniform; and

3. Making concessions programs more amenable to audit.

In achieving these goals, the Cooperators shall work together to address the recommendations for concessions management reform previously identified by the Congress, the Offices of the Inspector General, the Government Accounting Office, and the Department of the Interior's 1992, "Report of the Concessions Management Task Force Regarding Commercial Recreational Activities on Federal Lands." These recommendations include the following:

1. Form an Interagency Concessions Management Coordinating Group consisting of agency concessions management specialists and appropriate policy officials to review concessions management operations.

2. Each agency should establish and maintain a concessioner database, using a common set of data elements. The data elements for each data base should include, at a minimum, information on the (1) type of agreement; (2) length of agreement; (3) expiration date; (4) services provided; (5) annual gross receipts; (6) fees paid; (7) value of in-kind payments made in lieu of fees; (8) dates of audits; and (9) dates of reviews and evaluations.

3. Each agency should establish and maintain staff skilled in concessions management.

4. To the extent permitted by law and to the extent practicable, develop consistent provisions for concession instruments for the same types of uses.

5. Develop cooperative procedures to facilitate authorization of cross-boundary concessioner uses.

6. To the extent permitted by law, develop consistent policies for setting fees for similar types of concessions.

7. Develop and apply an accurate valuation system and reasonable controls for in-kind payments made in lieu of fees.

8. Develop eligibility and performance standards for all concessions programs.

II. GUIDING PRINCIPLES:

The Cooperators shall use the following principles as a guide in implementing the recommended reforms:

1. Where permitted by law, fees for all concession instruments should be based on fair market value.

2. Using a market-based approach, establish a baseline fee for advertisements, requests for proposals, and negotiations.

3. Where permitted by law, recoup administrative costs for all concession instruments.

4. Where permitted by law, charge a fee based on fair market value for concession instruments with State and local governments that have a subordinate instrument with third parties.

5. Where permitted by law, each agency should limit the length of new concession agreements to the shortest practical period, unless a longer term is determined to be in the public interest.

6. Require agency review and approval for transfers of ownership or control of the concession operation. All concession instruments should provide that when such transfers occur, the terms of the authorization are subject to renegotiation.

7. Agencies having competitive concession opportunities, including reofferings, should advertise widely in appropriate media.

8. Unless required by law, agencies should not grant preferential rights of renewal in concession instruments.

9. Unless required by law, agencies should not grant a possessory interest in improvements covered by concession instruments.

10. Where permitted by law, compensation for a possessory interest in improvements covered by a concession instrument should be based upon book value.

The guiding principles are not to be considered binding agency policy until such time as adopted by the agencies, pursuant to any necessary procedures under the Administrative Procedure Act.

III. STATEMENT OF MUTUAL BENEFITS AND INTEREST

The Cooperators have a common interest in providing quality visitor services and safe recreational experiences. Customer service and resource stewardship, along with ensuring a fair return to the Federal government, shall guide the Cooperators' efforts. Differences in concessions managed by the Cooperators, such as size and applicable legal requirements, are recognized, and shall be taken into consideration. A brief summary of each party's concessions program follows:

Bureau of Land Management - As a result of the Reclamation Project Act, BLM inherited recreational concession leases and their associated sites from the Bureau of Reclamation. BLM initiated a concession policy of its own in 1989.

Bureau of Reclamation - Of the approximately 250 commercial concessions on Bureau of Reclamation lands, the bureau manages 16 directly. The remainder are managed by other Federal, State, and local agencies.

U.S. Army Corps of Engineers - The primary objective of the Corps' concessions program is to provide services and facilities to meet public recreational demands at reasonable prices.

Forest Service - A large number and variety of commercial recreation concessions operate in the National Forests. Some of these commercial operations include ski areas, outfitting and guiding, and campgrounds.

Fish and Wildlife Service - Twenty concession enterprises are authorized to utilize lands, waters and facilities managed by the Fish and Wildlife Service.

National Park Service - The Concessions Policy Act of 1965 codifies virtually all aspects of concessions management in the National Park Service. Commercial Use Licenses, not under the purview of the Act, are used for services with minor impact on park resources.

IV. IN CONSIDERATION OF THE ABOVE, IT IS MUTUALLY AGREED BY THE PARTIES THAT:

The Cooperators shall endeavor to meet at a frequency necessary to achieve the goals and recommendations outlined in this MOU. In doing so, they shall share information and cooperate in promoting greater consistency in their respective concessions management programs. The following considerations are recognized in implementing this MOU:

1. The public interest shall be the primary consideration of the agencies implementing this MOU.

2. In implementing this MOU, each agency shall be operating under its own laws and

regulations.

3. Nothing in this MOU is intended to alter, limit, or expand the statutory and regulatory authority of the Cooperators.

4. This MOU is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement or contribution of funds between the parties to this MOU shall be handled in accordance with applicable laws, regulations, and procedures, including those for Government procurement and printing. Such endeavors shall be outlined in separate written agreements between parties and shall be independently authorized by statute. This MOU does not provide such authority. Specifically, this MOU does not establish authority for noncompetitive award of any contract or other agreement. Any contract or agreement for training or other services must fully comply with all applicable requirements for competition.

4. This MOU in no way restricts the parties from participating in similar activities with other public or private agencies, organizations, and individuals.

5. No member of or delegate to Congress shall benefit from this MOU either directly or indirectly.

6. Any party, in writing, may terminate this MOU in whole or in part at any time before its expiration when the other party has failed to comply with the conditions of this MOU.

7. Modifications to this MOU shall be made in writing and with the consent of the Cooperators and shall be signed and dated by the Cooperators.

8. This MOU shall expire no later than September 30, 1999, at which time it shall be subject to review and renewal or expiration.

IN WITNESS WHEREOF, the parties hereto have executed this MOU as of the last date written below.

Jack Ward Thomas — Chief, U.S. Forest Service

4 May 1995 — Date

Acting Assistant Secretary
of the Army
(Civil Works)

4/19/95
Date

Director
Bureau of Land Management

5/2/95
Date

Commissioner
Bureau of Reclamation

5/2/95
Date

Acting Director
National Park Service

4/28/95
Date

Director
U.S. Fish and Wildlife Service

5/2/95
Date

NATIONAL TRUST FOR HISTORIC PRESERVATION
49TH ANNUAL CONFERENCE
PLENARY SESSION II
FORT WORTH, TEXAS
OCTOBER 13, 1995

ROGER KENNEDY

We are very fortunate to have with us the Director of the National Park Service, which is also a cosponsor of this conference. Roger Kennedy is well known to us. I have here a page and half of very impressive things that he's done; very impressive positions that he's held; wonderful books that he's written. You're just gonna take my word for it that they're all wonderful.

Let me tell you what Roger Kennedy means to me, because I feel very strongly about this. This is a point of which cultural resources all over America are at risk. Many of those cultural resources -- and many of the most important of those cultural resources -- are in our National Park Service and our National Park System. We all are concerned about the lack of funding to adequately take care of them. But the thing that gives me the greatest hope is the fact that we have such a wonderful supporter of historic preservation and of protecting and caring for these wonderful resources, in Roger Kennedy. He knows this business better than anybody.

He has been on our Board of Trustees since 1988. He is, more than any of his predecessors, devoted to the care of the cultural resources in his stewardship. It gives me a great deal of pleasure to welcome our friend, Roger Kennedy, Director of the National Park Service.

MR. KENNEDY: Good morning. Can I take you all back again please to the spirit of that

wonderful rendering of "Amazing Grace", a hymn that calls us all together again in this specific place?

My first text comes from John Donne and my second from Thomas Jefferson. And I've got a total of 10 minutes, so you're safe.

"No man is an island entire of itself. Every man and woman is part of a continent; a part of the main. Any man's death diminishes me, because I am involved in all mankind. And, therefore, never send to know for whom the bell tolls. It tolls for thee."

And, from Thomas Jefferson ... whose interest in endangered species might not instantly come to mind. Thomas Jefferson, speaking of the other species with which we share this Earth -- but he might be speaking just as well of the other places for which we care and the other members of our communities.

"If one link in nature's chain be lost -- another and another might be lost, 'till this whole system of things should vanish by piecemeal."

I come to speak to you this morning about this place; about place as a custodian and container of memory ... of community ...and of continuity. I come to speak with you this morning about a struggle in which we are all engaged to preserve memory and the artifacts of human achievement.

In this place at the borderland between the East and the West; between Dallas and Ft. Worth ... between a place of lakes and big thickets of big trees ... and water and fields ... and a landscape so indeterminate that if required stakes so that you didn't lose your way -- the staked plains. Between the place to which, not far from here, DeSoto's band reached in 1542, having come from Tampa ... and came within 400 miles of where Coronado in that same year arrived from Santa Fe. The East and the West come together here. And we recall that in this specific place, though the Spaniards in 1542 did not leave a link of body armor or the stirrup of a horse ... this church tells us that -- so to speak -- John Wesley came here looking southward to where St. Anthony -- San Antonio -- and the brown robes of St. Francis look back upon us.

This is the meeting place, but most specifically it is a place. It is a physical structure in which we humans differentiate ourselves from many other species, in that we can take memory and make it tangible and auditory. We made memory auditory this morning in "Amazing Grace." This is an artifact of our species and our species alone. We can take our recollections in the ebb and flow of life ... in the midst of birth and death, decay and creation ... and we can make something last -- be it a melody ... Beethoven is dust, but the 9th Symphony exists. Be it a piece of sculpture ... Michelangelo is gone, but his sculpture lives. Be it a painting; be it a building, which is a container of experience, an embodiment of it ... and a landmark where we can find ourselves again.

We stop time. We arrest it. We make a mark. We call ourselves together in the presence of

place. We do it in the presence of a piece of music. Abraham and Isaac ... Peter and Paul ... are gone, but this book, this miracle of writing, is here ... this mode of making continuous human achievement.

I speak this morning for the continuing care of those places in which we humans come together and record ourselves as a responsible species. It is true that when any of the artifacts of human achievement are destroyed -- whether "Amazing Grace" or the 9th Symphony ... whether a work of sculpture or a national park ... whether Independence Hall or the San Antonio missions ... or a great or a small house ... or a neighborhood in Savannah or Charleston or Ft. Worth or Pittsburgh or Chicago ... When a neighborhood goes, we are, each of us, diminished -- each of us, each of us is the less. Every morning in a rainforest something new appears ... some new sprig appears, while the rest of it decays and it goes on for millennia. But with humans, with humans we say "This place exists to remind us of the people who were here before ... sharing a faith."

It is, therefore, true that all of us, all of us who care for the consequences of human achievement -- in all these forms -- are bound together in a common veneration for the conservative virtues of continuity ... the long life of communities as adumbrated in thing and sound. And we are held together in the memory and the emphasis upon community. Small town in Iowa; big town in New York -- but community that holds together and finds itself in physical place.

Now, ladies and gentleman, it is true -- as others have said more politely than I shall -- it is true that this commitment to the artifacts of human achievement ... in the arts, in the humanities, in music, in dance, in sculpture, in parks, and preserved places ... that veneration, that commitment, that belief, that pride in human achievement -- especially American pride in American achievement -- that is in peril. There are those who do not care about those achievements. There are those who don't believe that we care as much for that as we do for cash. As we share these commitments to the arts, the living embodiments of achievement ... the humanities, the written, the memorials of achievement ... and the places that call us together to meet together for common concerns ... there are those who say we are neither numerous enough, nor do we care enough, to resist the attack on any one of them. And I submit to you, ladies and gentlemen, that the time is long past for any of us to think that we were an island unto ourselves.

When the National Endowment for the Arts is diminished, I am diminished. When the National Institute of Museum Services, sustaining enumerable small museums across this country that will die without that sustenance -- not the Metropolitan, the little folks. When that is cut or eliminated, each of you is diminished. When the National Park Service is told that it shall set a price on every park and monument that it currently possesses for the people -- and that, indeed, by the Senate of the United States that we shall find $700 million by selling that off ... and that there is a list of 300 parks and places and monuments not thought sufficiently significant to be exempted from the possibility of forced divesture ... 300! That

simple fact manifests a conviction on the part of militant ignorance that we don't care enough to rise in defense.

Now let me tell you some of the places on the "hit list." And let me commence telling you that by giving you a simple exchange from a very recent legislative hearing. I said, "Surely, you do not wish us to put an appraisal upon Lincoln's home, do you?" To which the answer was, "Exactly just as you'd appraise anybody else's."

Now let me tell you the places we have been asked to appraise; The San Antonio missions; Ellis Island; Gettysburg; Antietam; Concord and Lexington; Valley Forge; Saratoga; Chaco Canyon. Some of these places mean more to some of you than to others. Manzanar; Martin Luther King, How do you feel about that? How do you like the idea that the National Park Service is supposed to put a price on that and 300 other places? I don't feel very good about it. But I'll tell you what makes me feel just fine. We're in this fight together. Everybody in this room who cares for a neighborhood or a house or a great symphony or piece of sculpture -- we are in this together in defense of the places that mark and keep and sustain and embody the highest reaches of the American tradition.

We are together in patriotic service -- every one of us, whether or not we go back and just take care of the old house. We are here to serve a composite of interests and commitments and beliefs that humans matter; that humans can outlive death; that humans can make beautiful things that have continuity; and that we care about that ... that we care about our

communities ... that we care about the continuity of the American tradition ... and we're going to beat the forces of militant ignorance.

I promised you'd be out here in 10 minutes. I've got a minute and half to go.

If you have any doubts that what I have said to you is serious, just look at what's happened to the National Trust for Historic Preservation. We're celebrating today that Dick Moe and the other members of this group have seen to it that it got back half its traditional support. We're celebrating that by the prowess of extraordinary skill, we got half of it. How about the other half? We are celebrating how nice it is that the Congress of the United States has vouched safe to insulate from appraisal and selling off, 45 out of 369 sacred places in this country that are put into our trust. It's very nice of them ... they've said, "Don't worry about that 45. Just worry about the other places that I suggested to you -- all the battlefields, all the national monuments, everything having to do with recent history or with the diversity of American life; because the 45 don't.

This is a struggle that has nothing -- nothing -- to do with party. I myself was reared as an Adams and Burken conservative. That's where my ideological heritage lies. I believe in the long continuity of institutions. I believe in architecture as the holder of continuity. I believe in community -- that it's a web of relationship that you tinker with and destroy at great peril. Those are conservative principles ... they are the conservative principles. That's what it's about. And the radicals are the people who don't care or don't know about how intricate and

subtle the fabric of community is. They don't understand or they don't care if you rip one part -- in Mr. Jefferson's terms, eliminate one part of it ... "take out" one neighborhood, blast out one building, bulldoze one place ... the rest of it is never again going to be the same.

And that's true of the other species as well. We make jokes -- we make jokes -- about salmon don't matter ... you get 'em from a can. I've heard that said by Congresspeople. Well, salmon connect to water and water with air and air with trees ... entire landscapes. And salmon tell us how healthy we are.

All of which is to say, ladies and gentlemen, I thank you for being there. I thank you for manning your part of the barricades. I thank you for being alert to the nature of this struggle ... to sustain traditional American values in place. I thank you for that. We're going to need every one of you and everyone else that you can recruit ... and we're going to need them all for a decade.

Let me say quickly and in finality to my liberal friends -- it is the bane of American liberalism to be satisfied with brief righteousness and a swift proceeding to a new cause. But now we are at a point where liberals and conservatives are going to have to be beside each other in caring for, over a long period of time, the American humane tradition.
Thank you

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Peter Dangermond is the President of Dangermond and Associates, Inc., which he founded in 1993. He brings to his consulting practice a life-long professional career devoted to parks and recreation and allied fields of wildlife conservation and open space preservation. Mr. Dangermond served as Director of the California State Department of Parks and Recreation from 1980-1982. He holds a Bachelor of Science degree in Landscape Architecture from California Polytechnic University. He is one of the founding directors of the Yosemite Restoration Trust, a non-profit organization formed in 1990 to seek improvements to visitor services at the park in ways that will enhance appreciation and enjoyment of natural values and will accommodate growth in visitation with minimal impacts on the park's natural resources.

Parker Westbrook is in his sixteenth year as a full-time volunteer in heritage and historic preservation for the Pioneer Washington Restoration Foundation in Washington, AR, where he has served as Executive Director, Restoration Advisor, and currently as President. He is active in numerous other preservation associations including the Arkansas Territorial Restoration Commission and the Arkansas State Review Board, Historic Preservation Program. Previously, he served as a Special Assistant and Administrative Aide to Members of Congress and a Special Assistant for four years to Arkansas Governor David Pryor.

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